BILLS (8)—FIRST READING.

1, Public Buildings Act (Validation of Payments).

2, Public Buildings Act Repeal. Received from the Assembly.

3, Noxious Weeds Act Amendment.

4, Feeding Stuffs Act Amendment.

5, Agriculture Protection Board Act Amendment.

6, Poultry Industry (Trust Fund) Act Amendment.

7, Potato Growing Industry Trust Fund Act Amendment.

Introduced by the Minister for Transport (for the Minister for Agriculture).

8, Road Closure (Wanneroo). Introduced by Hon. N. E. Baxter.

House adjourned at 9.1 p.m.

Legislative Assembly

Tuesday, 11th September, 1951.

CONTENTS.

The SPEAKER took the Chair at 4.30 p.m. and read prayers.

QUESTIONS.

INCREASE OF RENT (WAR RESTRICTIONS) ACT.

As to Prosecutions, Convictions and Penalties.

Mr. NEEDHAM asked the Chief Secretary:

(1) How many prosecutions have been launched for breaches of the Increase of Rent (War Restrictions) Act, 1939, during the period 1939 to the 30th June, 1951?

(2) How many convictions have been recorded?

(3) What were the maximum penalties imposed?

The CHIEF SECRETARY replied:

(1), (2) and (3) Prosecutions are not listed or indexed in their various categories, and, consequently the supply of the information required would involve considerable time in checking up charge sheets in courts throughout the State.

Since 1948 records have been kept by the Department, and these indicate that 22 prosecutions have been launched since that date.

Convictions number 17, the maximum penalty being £50.

These figures do not include prosecutions launched privately.

FREMANTLE HARBOUR.

(a) As to Conditions of Sampling Sea Water.

Mr. GRAYDEN asked the Minister for Works:

(1) Does he consider that the sampling of water from Fremantle Harbour carried out on the 9th October, 1950, to test the extent to which the water was polluted, was satisfactory, in view of—

(a) the fact that any oil, etc., would float on top of the water while the samples were obtained 6 inches below the surface;

(b) the fact that the strong incoming tide would be bringing in large quantities of unpolluted water and pushing any polluted water further upstream;

(c) the fact that sewage from ships in the harbour would be largely undissolved and would not be spread evenly through the water, and that any solids would not be included in the samples collected?

(2) Will he have further tests of this nature carried out under better conditions and extending further upstream?

The MINISTER replied:

(1) Yes, under the conditions then existing.

(2) Yes. Regular tests have been made monthly in the Swan River above the Fremantle Traffic Bridge over the last 3 years.

(b) As to Extent of Pollution.

Mr. GRAYDEN asked the Minister for Works:

(1) What was the nature and extent of the pollution discovered alongside Victoria Quay and North Wharf in the samples of water gathered on the 9th October, 1950?

(2) Was the bacteria involved harmful to humans?

The MINISTER replied:

(1) (a) Bacterial.

(b) Higher degree in central part of harbour, diminishing at entrance and up river. Number of organisms determined was low.

The percentage of harmful bacteria was very small.

(2) Yes, but the effect is quickly lost by oxidisation and dispersion.

(c) As to Members' Discussion with Mr. Tydeman.

Mr. GRAHAM (without notice) asked the Premier:—

(1) Is it true that a meeting of Government supporters was held at Parliament House today at which Mr. Tydeman addressed members on the Fremantle Harbour proposal?

(2) Is it customary for departmental officers to be made available for political party purposes?

(3) Were invitations to attend this meeting extended to members other than Government supporters?

(4) Will he make arrangements for Mr. Tydeman to discuss his proposals with all members?

The PREMIER replied:—

(1) to (4) Yes, I understand a meeting of Government supporters was held at the House today—I was not present—at the request of a number of members who wished to hear from Mr. Tydeman any information on harbour development. I do not know whether that is usual or unusual but I do know that similar meetings between members and Government supporters have been previously held at this House. I cannot see any objection to Mr. Tydeman's meeting any other members who wish to discuss the harbour project with him.

(d) As to Upstream or Seaward Extension.

Hon. J. B. SLEEMAN (without notice) asked the Minister for Works:

In view of the fact that Mr. Tydeman in his report states that the expansion seaward of the Fremantle harbour is the most rational course and that if such is followed there will be every requirement for a harbour, but that if the extension is made upstream there will be insufficient land for unrestricted development, and seeing that Mr. Tydeman this morning addressed a select number of members of Parliament, is it still the decision of the Government to extend the harbour upstream?

The MINISTER replied:

Yes, in accordance with the recommendations of Mr. Tydeman.

HEALTH.

As to Compulsory Immunisation against Diphtheria.

Hon. A. H. PANTON asked the Minister for Health:

(1) Is it the intention of the Government to introduce legislation this session providing for compulsory immunisation against diphtheria?

(2) If not, why not?

The MINISTER replied:

(1) No.

(2) Immunity is available to all by the arrangements already made. It is felt that public opinion should be influenced to voluntary use of these services by means of publicity, which is actively pursued.

HOSPITALS.

As to Regional Scheme.

Hon. A. H. PANTON asked the Minister for Health:

(1) Has the Health Department abandoned the scheme of regional hospitals inaugurated by the Willcock Government?

(2) If so, what does it propose to substitute in its place?

The MINISTER replied:

(1) No. On the contrary, some progress has been made in implementing the scheme.

(2) Answered by (1).

WORKERS' COMPENSATION.

As to Insurances with State Government Office.

Mr. LAWRENCE asked the Attorney General:

What were the numbers of employees insured with the State Insurance Office for general accident and industrial diseases under the Workers' Compensation Act for the years 1946-47, 1947-48, 1948-49, 1949-50, 1950-51?

The ATTORNEY GENERAL replied:

The information sought is not available, as no record is kept of the numbers of employees insured. Many employers do not show the numbers on the forms furnished by them.

STATE BRICK WORKS.

(a) As to Release and Delivery.

Hon. J. T. TONKIN asked the Minister for Housing:

(1) On what date was a release granted for bricks for the erection of a dwelling in Parker Street, East Fremantle, by Ellis and Cresswell for F. Howard, 46 Fairlight-st., Mosman Park?

(2) On what date was the order for the necessary quantity of bricks lodged with the State Brick Works?

(3) On what date was the first delivery of bricks made by the State Brick Works against this release?

(4) What quantity of bricks has been supplied to date against this release?

The MINISTER replied:

(1) 23rd May, 1951.

(2) 2nd August, 1951.

(3) No deliveries have yet been made by State Brick Works against this release, but the builder states four loads have been delivered on the site in error.

(4) Answered by (3).

(b) As to "Established Client."

Hon. J. T. TONKIN asked the Minister for Housing:

Is Mr. T. W. Lees, builder, regarded by the State Brick Works as an "established client" for the purpose of brick supplies?

The MINISTER replied:

Mr. T. W. Lees has been a client of the State Brick Works for a number of years, but does not receive regular allocations of bricks as do the contractors named on the list supplied to Parliament on the 14th August, 1951.

DAIRYING INDUSTRY.

As to State Assistance Towards Costs of Development.

Mr. HOAR asked the Premier:

(1) Has he read the report of the Dairying Industry Inquiry Committee, appointed by the Farmers' Union of Western Australia, and published on the 12th July, 1951?

(2) If so, does he approve of the principle adopted therein that a reasonable percentage of the cost of clearing and developing the heavy timbered areas should be borne by the State as a whole?

(3) If so, will he give consideration to incorporating this principle in the £300,000 farm development scheme now being advertised?

The PREMIER replied:

(1) Yes.

(2) The Government supports the principle, in the development of farms from Crown lands, that charges raised against settlers shall be related to the productive capacity of the developed area.

(3) The matter will receive consideration, but the writing down of developmental costs on freehold properties to below the market value raises fundamental difficulties.

HOUSING.

As to Loss to Owners through Non-possession.

Mr. HUTCHINSON asked the Premier:

(1) Is it a fact that some home owners who are unable to get possession of their homes have to pay more for rental of the homes they occupy than the amount they receive as rent for their own homes?

(2) Is it a fact that these people who thus already suffer a financial loss through their being unable to obtain possession of their homes, have to pay income tax on the amount they receive as rent?

(3) If this is so, will he approach the Commonwealth Government with a view to correcting this anomalous state of affairs?

The PREMIER replied:

(1) Yes.

(2) Yes.

(3) The Commonwealth Government is already acquainted with the position.

TOWN PLANNING.

As to Board's Attitude to South-of-River Railway.

The CHIEF SECRETARY:

On the 29th August, 1951, the member for Nedlands asked me the following question:—

> Is the Town Planning Board in favour of a "South-of-the-River" railway between Fremantle and Midland Junction?

to which I replied:

> I am referring this question to the Town Planning Board and will give the hon. member an answer in due course.

I now have that answer, which reads as follows:—

> I am advised that the board is in favour of a line south of the river from Fremantle to the South-Western railway. However, the views of several authorities closely affected would have to be obtained before such a proposal could be considered.

BILL—REAL PROPERTY (FOREIGN GOVERNMENTS).

Introduced by the Attorney General and read a first time.

BILLS (2)—THIRD READING.

1, Public Buildings Act (Validation of Payments).

2, Public Buildings Act Repeal. Transmitted to the Council.

BILL—RURAL AND INDUSTRIES BANK ACT AMENDMENT.

Message.

Message from the Administrator received and read recommending appropriation for the purposes of the Bill.

Second Reading.

Debate resumed from the 6th September.

HON. A. H. PANTON (Leederville) [4.42]: The purpose of the Bill is to amend certain sections of the principal Act, experience over a considerable period having shown that course to be necessary. The Minister for Lands briefly explained the position the other night, and I do not think anyone could find much cause for disagreement with what is proposed. Under Section 51, paragraph (a), the bank is prevented from lending money to other than those who have current accounts with the bank or who open one. That section is to be repealed as it has had a hampering effect upon the bank's operations, and in future it will be able to lend money to other than depositors, should the security available be satisfactory. I can see no objection to that proposition.

The next provision to be dealt with is Section 67, which is a very long one and I do not propose to read it to members. It, too, has been found to have a hampering effect upon the bank's operations. That provision is also to be repealed because it involves other sections of the Civil Service in much unnecessary work. I was very pleased to hear the Minister's eulogistic references to the Rural and Industries Bank. I had intended looking up an earlier speech of his in "Hansard" because I was under the impression—I am not altogether sure about the point—that on that occasion he opposed what he terms as "this socialistic legislation."

Mr. Marshall: That would not be unusual for him.

Hon. A. H. PANTON: Over the years the Rural Bank has proved a great success and it has filled a long felt want. When he was moving the second reading, I asked the Minister about the position of 16 officers who were to be retired.

The Minister for Lands: There are 13 officers affected.

Hon. A. H. PANTON: I am concerned about the position because a member of this House showed me a letter from one of the officers who is 62 years of age and is a bit worried about his future. He wants to know whether the Government intends finding a job for him. I hope the Minister will keep that point in mind. In the course of his remarks, the Minister said that the officers in question were to be absorbed in other departments. In my opinion, the man who has served the State throughout the regime of the old Agricultural Bank until the present time and has only another three years to go before his retirement will be compulsory, will find it rather difficult to secure another suitable position.

The Minister for Lands: Yes. I have made a few further inquiries and have ascertained that several of these officers intend to retire. Some of them have had enough of it.

Hon. A. H. PANTON: I am glad to have had that information from the Minister, and I have pleasure in supporting the Bill.

MR. MARSHALL (Murchison) [4.46]: In supporting the second reading of the Bill I take the opportunity to ask the Treasurer if he will once again take steps to secure some sound legal opinion upon one section of the Commonwealth Constitution dealing with currency, coinage and legal tender. We have in this State a banking institution of great value to the country, one of greater value than probably all but a few who have given consideration to banking matters really appreciate. As a matter of fact, the Rural and Industries Bank could finance Western Australia simply and easily and thereby avoid any borrowing—with one exception.

I have had some small transactions with the officers of the bank and I say quite frankly that for courtesy and civility, attention and assistance, this bank has no peer in the State. I care not what other banking institution any member may have in mind. The officers seem to be very efficient and thorough in their work, and I certainly like to express appreciation of services rendered when we get it from an institution that, as it were, rubs shoulders with other sections of the Civil Service.

As I mentioned before, we have here a bank that could finance the State without having to resort to borrowing at all but, of course, if it operated right away from ordinary banking experience and practice, which decrees that credit issues of a greater ratio than about ten to one —that is to say, £9 credit issue for £1 of legal tender held by the bank—it would be dangerous. That is the view of the banking system the world over. Within that ratio ambit, there is no danger because in practice it has been found that people do not all rush the bank to withdraw their deposits at one and the same moment. That proves conclusively that the depositors' money is not actually available in the bank, irrespective of what bank may be affected.

To that extent, the banking system is, in effect, fraudulent, because, although people believe their deposits are held by the bank, that is not actually the position. However, that is not the point I

want to make. I wish to refer to a particular part of the Commonwealth Constitution with a view to asking the Treasurer to find out if it is possible to overcome the situation. I have my doubts on the matter. I am under the impression that the Federal Treasurer holds full sway and could, at any moment, force the Rural and Industries Bank and any other bank into a state of bankruptcy. In fact, I think it is quite obvious. I would therefore like the Treasurer to secure legal advice on the point because, notwithstanding the foresight and care of the older pioneers who dealt with the work throughout Australia when Federation was being considered, they had little knowledge of banking operations in those days.

I feel that there is a contradiction in the Constitution, and that it was never intended the Commonwealth Treasurer should rule supreme over the State Treasurer when it came to a matter of banking. From the way the Constitution is worded, however, I must express doubt as to the authority of the State Treasurer, and it is that point I wish him to clear up. When speaking on the same subject 12 months or two years ago, I asked him to do so, and I repeat my request. Section 51 of the Constitution reads, in part, as follows:—

> The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to—
>
> (xii) Currency, coinage, and legal tender;
>
> (xiii) Banking, other than State banking, also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money.

It will readily be appreciated that paragraph (xiii) specifically debars the Commonwealth Treasurer from having anything to do with State banking; and State banking is futile when there is no power over coinage, currency and legal tender, because it is merely playing with the shadow while the substance is denied us. It can be taken from paragraph (xii) which refers to "currency, coinage and legal tender" that the Convention, which dealt more than once with this subject, had in mind that a uniform unit of account was urgently necessary; and so it is. It would be strange to have one coin circulating in Western Australia and others in other States, so that we had six States each with a different type of money, thus creating endless anomalies.

So we can say that the Constitution provides for the Commonwealth to have jurisdiction over currency, coinage and legal tender to the extent that these things must be kept uniform, but not to such a degree as would interfere with the right of State banks to operate and function with every degree of security. Had that been intended, it was futile to give control or sole jurisdiction to a State over banking, if the very essence upon which the bank existed were denied the State. I urge the Treasurer to try to persuade other State Premiers or Treasurers to co-operate with him in endeavouring to obtain from some firm of constitutional lawyers a ruling as to the exact meaning of paragraphs (xii) and (xiii) of Section 51 of the Constitution.

Mr. Grayden: Are you opposed to the idea of a central bank?

Mr. MARSHALL: No. Of course, it depends a good deal on what the hon. member means by a central bank. I hope he does not imagine that the Commonwealth Bank is a central bank to the extent that other banks throughout the world are recognised as coming within that category. The Commonwealth Bank is a hybrid bank as at present constituted and only a puppet of international banking. If he wants me to subscribe to the belief that such a bank as that can be defined as a central bank, I must part friendship with him immediately.

I would again ask the Treasurer to make inquiries into this matter. He and other State Treasurers might very well confer upon the point, because the Rural and Industries Bank has behind it the whole of the assets and resources of Western Australia, which is by no means a poor State. While we may owe a few hundred million pounds, as a State national debt, we have a thousand times more than that value in our assets which the bank could use for the purpose of credit issues. It could do exactly what the Royal Commission reported could be done by the Commonwealth Bank; it could make money available to the Treasurer free of any charge.

We cannot continue much longer under the present system, because that system is due to crash very shortly. In closing, I wish to thank the officials of the bank and congratulate the Government on their efficiency and the great progress the institution has made. I would thank the officials for courtesy extended to me personally, and express the hope that the bank will develop into something that will be of real value to the State and the well-being of the people of Western Australia.

MR. BOVELL (Vasse) [4.54]: I do not want to delay the passage of the Bill, with which I am in entire agreement. I consider that the Rural & Industries Bank should be given every privilege that is enjoyed by the other banks. I believe in fair competition, and consider that each State should have its own banking institution. With regard to the remarks of the member for Murchison in connection with vesting in this bank the whole resources of this State, I should say that he is endeavour-

ing to take from the Treasurer all the powers he may have in regard to financing Western Australia's enterprises.

Hon. A. H. Panton: He has not any power except what Sir Arthur Fadden gives him.

Mr. BOVELL: The member for Murchison appears to advocate that the bank should assume control of all the State's assets and finance on those assets. That would leave no room for a State Treasurer chosen from the elected representatives of the people.

Mr. Marshall: That is a typical banker's argument.

Mr. BOVELL: It is the only reasonable argument under our present monetary system. In the past we have heard the member for Murchison expound certain theories with which I do not agree, because I believe that no better system has been submitted than the one that exists, in spite of all its faults. I support the Bill.

THE PREMIER (Hon. D. R. McLarty—Murray) [4.59]: I remember very well that this matter was raised by the member for Murchison during, I think, the last session of Parliament.

Hon. A. R. G. Hawke: Before that.

Mr. Marshall: I will forgive you for forgetting the date.

The PREMIER: For many years the hon. member has been lecturing us in regard to the monetary system. In connection with this particular matter, I told him I would make inquiries about the proposals he put forward. I did so and I was told that his proposition could not be put into effect.

I am willing to seek the best legal advice on this point to ascertain whether there is anything in the arguments the hon. member has submitted. I understand him to say that this bank should have control of the note issue and currency. I could see very grave difficulties arising if that power were given to the Rural and Industries Bank because, if our State bank could have those powers, they could be given to banks in every other State and the Commonwealth would no longer have any control worth mentioning in that regard. I can visualise that a chaotic state of affairs would then arise and I think it is clear that all control over our note issue and currency is vested in the Commonwealth.

Hon. J. T. Tonkin: The Australian Notes Act of 1910 reserves to the Commonwealth the right to issue notes.

The PREMIER: That is so.

Hon. A. R. G. Hawke: Does not the Rural Bank issue cheque currency?

The PREMIER: The hon. member is now raising the argument of the member for Murchison. Like the associated banks the Rural and Industries Bank has cheques issued on it, but it is easy to see the difficulties that would arise if the suggestions of the member for Murchison were adopted. At the present time I would be very glad to lay my hands on a considerable sum of money if I could get it through the Rural and Industries Bank. I can only state, however, that I will obtain for the hon. member the information he desires and will endeavour to get it from a constitutional authority.

Question put and passed.

Bill read a second time.

In Committee.

Bill passed through Committee without debate, reported without amendment and the report adopted.

BILL — INCREASE OF RENT (WAR RESTRICTIONS) ACT AMENDMENT AND CONTINUANCE.

Second Reading.

Debate resumed from the 4th September.

HON. J. T. TONKIN (Melville) [5.5]: After very great delay and at long last, Parliament is being given opportunity to consider an amendment of an Act under which many hardships have occurred since the passing of the amending Bill last year. The fact that the present Bill is now before us is proof that it is necessary and that the Government knows that that is so because, did the Government not think it necessary to amend the Act, one may be sure that the measure would never have been brought before Parliament at this stage.

If it is necessary to amend this legislation now it was more necessary to do so before the 30th June last, because on that date it became possible for a number of people to take advantage of the provisions of the Act. Had the Government moved in this matter when an endeavour was made by this side of the House to have it so move, many people who can now get no protection whatever from amendments that may be made to the legislation could have been protected. That is where the unfairness of the whole thing is seen. Once we agree that an Act is bad legislation and should be corrected, we should hasten to make the corrections that are necessary in the interests of those persons who will suffer in the meantime if we do not do so. The Government, however, showed no such anxiety.

It seemed to us, who sit on this side of the House, that only with the greatest reluctance did the Government take the step which it felt had to be taken. Of course it is necessary for this step to be taken. It is no use the Government saying that it had to wait until it was fully convinced that amendments were necessary, because members of the Government knew better than did anyone else what advantage was being taken of this legisla-

tion early in the present year. I venture to say that no-one in the community is better informed than is the Deputy Premier as regards the injustices that have occurred and the wholesale evasions of the Act to which he has referred. There I have used his own words "The wholesale evasions of the Act."

As nobody was better informed than was the Deputy Premier—I am quite certain of that—it is hard to understand why he did not use his influence with the Government to call Parliament together early in order that these wrongs might be righted at the earliest possible date, and so that a majority of the people might be protected in the way in which they should be protected. Not only were members from this side of the Chamber urging the Government to take action—not only were many tenants urging the Government to take action—but also one of our judges appointed by the present Government used some very plain language which faced the Government right up to the position. I quote now from "The West Australian" of the 11th July last, where there appears the following:—

> The recently-amended Increase of Rent (War Restrictions) Act was "a thing of patches, freely interspersed with incongruities, inconsistencies and absurdities," said Mr. Justice Virtue in the Supreme Court yesterday when giving judgment on a tenancy case under the Act.
>
> The new subsection on which the action was based, his Honour said, was extremely ambiguous and unfortunately-worded and one which called for immediate clarification by the Legislature.

Not clarification delayed for many months, but immediate clarification. He continued—

> "These remarks indeed apply to the whole of the Act in its present form," he said. "Through repeated amendments, which do not appear to have been properly correlated with the original Act, it has become a thing of patches freely interspersed with incongruities . . . This is a very grave position with legislation of its extreme social importance, and I can only hope that some early and successful effort will be made by Parliament to rationalise it and to facilitate the task of the general public in understanding it, and of judges, magistrates and lawyers in interpreting it."

One would have thought that when a judge of the calibre of Mr. Justice Virtue had informed the Government of the grave position that existed, the Government would not have dilly-dallied but would, instead, have hastened to put the matter right. Not so! Instead of that all the frustration in the world was encountered. We were told that there was plenty of time to attend to the matter. We were assured that it would be attended to in good time but, as time in fact ran on, more and more people suffered under this legislation. That did not seem to worry the Government.

The Deputy Premier was outspoken about the Act. He said he was fully aware of the situation. He spoke of the greed and chicanery of some owners of premises. He said—

> Some of the problems associated with the matter arise directly, it appears, from the greed and chicanery practised by some landlords who seek to take advantage of any possible loophole in the legislation.

Then he spoke of abuses of the law and said that the Government had asked for a regulation to be drafted to prevent abuse of the amended law. The Government asked that a regulation be drafted but found that that could not be done and let the position remain just it was right up to the present. "The dubious acts of landlords," said the Deputy Premier, in referring to the matter. We were told that consideration was being given by a sub-committee of the State Cabinet to the desirability of amendments to the Increase of Rent (War Restrictions) Act Amendment Act of 1950, including heavily increased penalties and possible imprisonment for dubious practices by landlords.

Can there be any doubt in the mind of anyone that there was a real need to do something about this Act? Once we became convinced that there was a need to do something in that regard, there was a responsibility on us to do what was necessary and to put the matter right quickly. One does not let a sore fester but gives it attention straight away if one does the right thing. But no; probably because of opposition in the Government's own ranks, nothing was done. One person could be mentioned in that regard—the person who made some remarks about "Father Christmases." He said we needed to be Father Christmases if we were to improve the position. Is it being a "Father Christmas" to do justice and to do the right thing? Would it have been playing at "Father Christmas" to do what was needed to be done months ago? The proof of it is that the Bill is now before us.

If this is an attempt to put things right at the present stage, what about the persons who can get no advantage whatever from what we now do—the persons who have been emptied out of flats or who have been put out of their houses by landlords who said they wanted the dwellings for their own use but subsequently sold them? What about that? We can do nothing to afford redress to those people, nor can we do anything to punish those landlords because the time has expired, action not having been taken within six months.

It is to the utter discredit of this Government that it dallied so long in an important matter of this character. "A matter of grave concern," said Mr. Justice Virtue, "because of its social character." I agree absolutely with the sentiments he expressed in connection with it. The Chief Secretary's idea was that we should give this Act 12 months' trial. I have seen the same thing said elsewhere. Just imagine that! An Act full of incongruities and absurdities! an Act which permitted wholesale evasion; an Act which permitted greed and chicanery to run its course should be given 12 months' trial! Ye gods! Twelve months' trial for what? To show the depths to which we would allow people to sink, or for us to gather enough courage to deal with the position?

What is the explanation? Once we became convinced that something was necessary to close the loopholes, we should not have wasted a minute. If we had blundered, and blundered badly, and had not been able to foresee the advantage which could be taken of this legislation, there might have been some excuse, but once such matters were brought to our notice we should have hastened to put things right. But no! That did not suit the way of the Government; it was not at all anxious to get on with the job, and so it first refused the requests of deputations that Parliament should be called together at an earlier date. Had that been done, we could have benefited people who suffered on the 30th June. But that was not done. The next was an attempt to suspend Standing Orders so that we could give early attention to the Act, and thus bring relief to some other people who were suffering under the legislation in the meantime. But no! The Government was not to be hurried. It wanted to take its own time in putting right this grave social injustice.

Those people who have been forced out and have been unable to find other accommodation, have been obliged to go to the Housing Commission. I will say this that once it became apparent that warrants had been issued, and there was nothing else for it, the Commission endeavoured to find accommodation for those unfortunate people. The Commission would not move immediately the landlord was granted an order in the court. In every case, with one or two exceptions of favoured persons, the Commission required that the warrant should actually issue before it would find other accommodation. But once that occurred, the Commission did provide some dwellings—three-roomed places which may be adequate for a man, his wife and child but which certainly will not provide suitable accommodation for a man with a large family. I can imagine a person with five or six children endeavouring to make do with one of those temporary houses which have been erected at Melville or Naval Base.

Mr. Grayden: He may get two of them.

Hon. J. T. TONKIN: Two of them! Get six of them.

Mr. Grayden: No, get two.

Hon. J. T. TONKIN: What chance would a man have of getting two? The hon. member had better put up that idea to the Minister for Housing.

The Minister for Housing: Two large families have already received two houses each.

Mr. Grayden: I put up a case of a family with six children, and they were given two houses.

Hon. J. T. TONKIN: One in the district of the member for Nedlands and one in the district of the Minister for Housing. Is that right?

Mr. Griffith: Why do you not give credit where it is due?

Hon. J. T. TONKIN: What credit is there for that? If there is any credit due, then I am quite ready to give it. I say quite definitely that houses of this type, while they will provide temporary accommodation for persons with small families, are entirely unsuitable for people with large families. If the policy of the Government is, in certain cases, to make two of them available, then it will have to hurry up with the construction of those houses. Although the Deputy Premier did not say so, and consequently did not give us a true picture, I understand there are more than 500 notices of eviction recorded at the Housing Commission. The Minister for Housing will know whether that is right or not. How long will it take the Commission to build 500 of these temporary dwellings? If some families are to get two of them to accommodate each family, then we shall want more than 500. That is the problem that confronts us, and we are partly responsible for a proportion of it because of our haste in removing controls in the way we did.

The Government's policy of spec. building will not help the situation. We have this position on our hands at present: We can pick up the daily paper, or the week-end paper, and see houses being advertised for sale at a figure of £4,000 or thereabouts. That indicates that there are vacant houses—new houses. Why are they vacant? They are vacant because the big bulk of the people who are being put out of their homes, the tenants, have no earthly chance of finding £4,000 to purchase these houses. So these spec. houses are not contributing in the slightest degree to the problem resulting from the eviction of tenants—not in the slightest degree. But the policy is using up materials which might have been going to provide houses, and, which could have made provision for the persons being evicted as a result of this legislation.

Mr. Grayden: They are not the only people waiting for homes.

Hon. J. T. TONKIN: Sooner or later the Government will have to give serious consideration to that policy and see where it is leading us. Before we can proceed to an intelligent consideration of the legislation before us, we must have a proper appreciation of the reasons for it. Why do we, at any time, introduce legislation of this kind? Some people will tell us, offhand, that it is a wartime measure; we introduce it when there is a war on. We may do, but we do not do it because there is a war on; we do not introduce legislation of this restrictive character because we are fighting a war.

The legislation is introduced to deal with a set of circumstances which are the result of a country being engaged in war, because we know that when a country is engaged in war, house-building almost ceases, prices rise and, because of the shortage of houses, landlords take advantage of the position and start to increase rents. Knowing these things—and it does not matter whether it is a Liberal Party Government, Country Party Government or a Labour Party Government—we realise that when we have a certain set of circumstances it is necessary to introduce legislation of this kind. For what purpose? In the interests of the landlords? Of course not! Legislation of this kind is introduced against landlords and in the interests of tenants; that is the reason for it. No other, because there is a set of circumstances which makes it imperative that some steps be taken to protect tenants.

While that legislation continues on the statute-book, it is there not in the interests of landlords but against their interests. It is there for the protection of tenants, and as time goes on and circumstances improve, and we feel there is not the same need to protect tenants, then the protection is whittled away until finally we reach the stage when we say we can dispense with the protection altogether because conditions are such that tenants can carry on without it. That is the history of it and the reason for it.

If we are going to protect tenants, then we should see that we do so. If we are not prepared to protect tenants, then we should say so and see what happens. We would come to a speedy realisation that under existing conditions we should protect tenants against circumstances which are far too strong for them. The housing position in Western Australia was never worse than it is today. Despite the large number of houses which have been built—brick, timber-framed and prefabricated houses—I say it is an incontrovertible fact that the housing position was never worse, even in the depths of the war, than it is today.

The Premier: Yet it is not nearly as bad as you anticipated it would be.

Hon. J. T. TONKIN: I know the reasons, but that does not alter the fact that the situation is as I explained it. Members of Parliament know, because scarcely a day goes by when they do not receive a request from at least one tenant in distress and almost in despair. We know the Housing Commission is still in the position that it has unsatisfied applications from as far back as 1947. Persons whose cases were admitted to priority in 1947—that is, cases considered to be worthy of immediate attention—are still without houses. So for four years they have been living under conditions which the Housing Commission admitted they should not be living under.

The increase in population due to the migration policy has permitted this to happen: Slowly but surely our people are being put into the streets, while newcomers to Western Australia go into their houses. Surely members know that is what is happening! It is going on every day.

I have had a number of instances where returned soldiers from the first war and from the second war are now under notice of eviction from persons who have come from countries against whom those soldiers were fighting. It must be pretty heartbreaking for some of these returned men in the circumstances. I have a letter in my satchel from a man who fought in the 1914-18 war; he has several children. An alien has taken action through the court for the repossession of the house, and the Legal Service Bureau has informed this exserviceman that he has no chance and will have to get out. When this alien comes into the country we assist him to buy his property and give him 25 per cent. of the money he has when he gets here. So he is in a much better position to pay for houses than people who are already in the country. The actual system is such that if a man comes in with £4,000 we immediately give him another £1,000 and he then has £5,000.

Mr. Bovell: That is because of the appreciation he receives in the Australian currency.

Hon. J. T. TONKIN: I am talking about a man coming in with £4,000 and being given an extra thousand.

Mr. Bovell: He is coming from England and he is not an alien.

Hon. J. T. TONKIN: Has he to come from England to have English money? When these men come into Australia they get the advantage of the exchange rate and the amount of their money is increased. With that assistance they are able to outbid our Australians and they do. They buy up these places and when they have done so they serve notice on the tenants to get out. So we are in the position that people who a few years ago were our enemies are moving into Australian houses, while the Australian occupants who previously fought them are being put out into the streets. I know very well that if we invite people to come to our country and we want them to become members of the nation we have to treat them decently and encourage them to come here.

Mr. Griffith: Can you give us any evidence as to the extent that this happens?

Hon. J. T. TONKIN: The hon. member should ask the Minister for Housing.

Mr. Griffith: You have given us one instance and you want us to believe that it is general.

Hon. J. T. TONKIN: I say it is fairly general.

Mr. Griffith: I am interested to know whether you have any facts.

Hon. J. T. TONKIN: How many cases does the hon. member want me to quote? I can tell the member for Canning this, and I can prove it to him privately if he wants to take the trouble, that I have at least half-a-dozen cases with me in writing. These are not only letters from the persons concerned but in some instances a copy of the eviction notice is included. The hon. member wants evidence. I hope you will afford me a little time, Mr. Speaker, so that I can produce it. Here is No. 1. I will leave out the preamble, which makes some reference to myself. The letter reads as follows:—

> We have an eviction for September 30th and according to legal advice we have no alternative but to vacate. The point that I am trying to emphasise is the unfair legislation that allows two families to be evicted for an alien whom I am given to understand is a single man and is not even a naturalised British subject. We find these same gentry prior to a war advocating men to go and do their bit and we will find a new order after the war. Yes, we are certainly getting it, the same as all Liberal Governments have done in the past—spoon-feeding the big man and the wage-earner can go to Hell.

The Premier: We will take no notice of him; he is biassed.

Mr. J. Hegney: They wanted evidence.

The Premier: Not biassed evidence.

Hon. J. T. TONKIN: The extract continues—

> It appears in the near future we will have another war upon us. How can these men expect to get recruits when they treat the past ex-Servicemen in this manner? I served oversea in the first war and also served locally in the second. My age and physical condition debarred me from going oversea. My son-in-law also served oversea in the second war and yet the law as it stands can evict us for a single alien who has done nothing for Australia nor even likely to. I am 60 years of age and since the year I was entitled to vote have taken an interest in politics. I have no doubt that this man wants us evicted in order to place some of his countrymen in at an increased price for rent and the only thing I can do is to sit on the fence and watch if he occupies the house himself. But that is little satisfaction after we have been evicted and I have tried for weeks to get a house but I am not in the race.

Mr. Nimmo: Could not he have got a war service home after the first war on a very low deposit?

Hon. J. T. TONKIN: He would be battling to get a war service home now.

Mr. Nimmo: You said he was a returned Serviceman after the first war.

Hon. J. T. TONKIN: He said he was.

Mr. Nimmo: Then he could have got a war service home on a very small deposit.

Hon. J. T. TONKIN: He did not.

Mr. Nimmo: He lost his opportunity.

Hon. J. T. TONKIN: And he has to be evicted for people who are coming from oversea.

Mr. Griffith: When you are asked a question you immediately think that it is meant to be antagonistic.

Hon. J. T. TONKIN: When the hon. member refuses to accept the statement I made and asks for evidence, it means that he doubts my veracity.

Mr. Griffith: That is your own suspicious mind.

Hon. J. T. TONKIN: It is the only conclusion a man can arrive at. If a man makes a statement and he is not challenged, he proceeds; if he is asked for evidence there is an indication of doubt in the mind of those who listen to him and he therefore proceeds to give the evidence. The proof is here. I am sorry I cannot find that lawyer's notice, Mr. Speaker, because it is a particularly good one. Not only did it not comply with the law, but it was a case of the owner trying to bluff the tenants out before the amended law gave him the right to do so.

In connection with this particular case, I was asked to get in touch with the Housing Commission and inquire from the officer down there why he had merely noted the application and done nothing about it because it did not comply with the law. The reply I received was most unsatisfactory and I therefore rang the solicitor concerned and inquired why he was trying on this bluff. He said it was not a bluff because the law allowed it. I asked him to read the Act again and, having convinced him, he then issued an amended notice. I have that notice here but at the moment I am unable to find it. However, if the member for Canning wants evidence I will supply it to him later. When this kind of thing is possible I do not think we should be very pleased about it. It is possible and it is happening to a very large extent.

I received a letter this morning referring to a similar case in which one of these New Australians has bought up a place over the heads of tenants who have been there for years, and in which the tenants will have to get out to make way for the newcomer. That might be happening to a far greater extent in Fremantle than elsewhere. I do not know whether it is or not because I do not make these inquiries extensively outside my own district. But I do know it is happening to a very large extent in the Fremantle area and we can do nothing about it as the law stands at present. It does not seem to me to be right.

When we come to consider that Fremantle has not had its proper quota of houses erected in the area, and from that decreased quota a number of houses have been made available for migrants and for special personnel working at the Power House, then it can be seen in what an awkward predicament we have placed the tenants in Fremantle who are being evicted under the legislation. They are in a far worse position than people anywhere else in the State. Because of that combination of circumstances and in view of the fact that the housing position was never previously as bad as it is today, should we have been removing controls at all? We apply these controls to deal with a situation, and the housing situation was never worse. So if there was any argument at any time as to the Increase of Rent (War Restrictions) Act that argument is strongest now for all the protection we can give to tenants. Instead, we are whittling away that protection.

It is my considered opinion that we attempted to move too fast in this State in the removal of controls, and I say that because of what has been attempted elsewhere in Australia. In South Australia they have built more houses than we have; they built houses during the war when we did not. So their problem never at any time became as acute as ours, yet they have not thrown their controls overboard to the extent that we have. When we passed our amending legislation last session the South Australian Government, being very wideawake, was most interested to see how we were able to do that, and it sent an expert officer over to find out. The Premier will know whether that is true or not. When that officer came over here and investigated our conditions and had a look at our legislation, he said we were crazy, and he was right.

The Premier: A very indiscreet remark.

Hon. J. T. TONKIN: It was very true. One cannot blame a man for speaking the truth if the spirit moves him, even though it might be regarded as indiscreet by a Government that is concerned about the position.

The Premier: Indiscreet and irresponsible.

Hon. J. T. TONKIN: No, this man could not be irresponsible because he is too well equipped and too experienced. The Playford Government regards him as a man upon whom it can place full responsibility in this matter of housing and the protection of tenants. Does the Premier know that in South Australia one man has been appointed to look after this particular side of the business, that he hears the cases throughout the State so that the decisions will be uniform? He is an expert specially chosen for the job.

The South Australians said that we were ahead of our time, and it is significant that they did not follow our lead. They have a better realisation of the need for a continuance of these protections against the exigencies of the times. I repeat that legislation of this sort is essential, not to deal with or against or for persons, but to deal with a set of circumstances where the pressure is too great in one way and it is necessary to relieve the pressure.

Because of the shortage of houses and the great demand for accommodation, there is tremendous pressure on landlords to force rents up and sell properties in order to get the advantage of high prices. That urge being too great for human nature to withstand requires someone to apply a brake, and Governments apply that brake by means of restrictive legislation. But we in this State have to a large extent taken the brake off much before the time, because the housing situation was never worse than it is today. And it will become worse still, as the Minister for Housing knows, as these evictions take place and more people come into the country.

Mr. Hutchinson: Do not you agree that some of the landlords—although landlord is hardly the term to describe a man who owns only one house—who desire to live in their homes have a right to do so?

Hon. J. T. TONKIN: I do.

Mr. Hutchinson: There are quite a number of people in that category who have suffered just as much as the tenants you have mentioned.

Hon. J. T. TONKIN: I do not regard such a man as a landlord.

Mr. Hutchinson: Such men have been regarded as landlords.

Hon. J. T. TONKIN: A man who owns a house and is living elsewhere under very difficult circumstances is entitled to get into his own home. I want the hon. member to know exactly where I stand on that question.

Mr. Griffith: Do not you think that the 1950 legislation attempted to give such a man possession of his own home?

Hon. J. T. TONKIN: Yes, and it contained a lot more with which I do not agree.

Mr. Griffith: I am glad you agree on that. It was not asked antagonistically, either.

Hon. J. T. TONKIN: Then the hon. member is improving. The Government has overlooked the fact that the law of diminishing returns must continue to affect the position. When the first lot of evictions took place, it was possible for a proportion of those people to find accommodation with relatives and other persons. They could squeeze into an odd room here and there, but as more evictions take place, the squeezing-in becomes more difficult because there are fewer places left into which to squeeze. So the first crop of evictions on the 30th June had the effect of using up quite a lot of those vacant spaces, but having been used up, they are no longer available for the persons who will be evicted in future, and the evictions will take place at a greater rate then than the rate at which the Government will be able to build houses.

I regret that the Deputy Premier did not quote the exact number of evictions according to the Housing Commission because he is entitled to get the figures officially. I can only go on what I hear and then have to come to a conclusion which I feel is reasonably sound. When I say that there are more than 500 applications registered with the State Housing Commission, the number might be considerably in excess or it might be less than 500, but I do not think it is less. If it were less, I feel that the Minister for Housing would have told the House long ago. Therefore I think we would be safe in assuming that there are at least 500 evictions pending under the legislation, and that is going to impose a terrific task on the State Housing Commission.

Mr. Hutchinson: Following on my question of a moment ago, what percentage of the 500 would you say would be persons genuinely desirous of getting into their own homes?

Hon. J. T. TONKIN: I have no idea and I would not hazard a guess, but I believe that a bigger percentage of such persons will be seeking the eviction of tenants on the 30th September than was the case of those who sought eviction on the 30th June. A number of persons who have become owners of their own homes have done so within comparatively recent times—12 months or so. The Act provides that such persons may not serve notice on tenants until they have been in the country for two years and have owned the property for six months. Thus a number of persons from oversea—and this has a bearing on the question asked by the member for Canning—had to be in the country for two years before they could take action, and they had to own their places for six months. I feel that a very large proportion of the 500 evictions which are pending now are the result of applications on behalf of persons who have owned their houses for less than two years.

Mr. Hutchinson: I agree, but this problem is not entirely one-sided. I think you will agree with that.

Hon. J. T. TONKIN: Quite so, but the Act is for the protection of tenants, not landlords. Legislation of this sort has never been introduced in the interests of landlords; it is introduced in the interests of tenants against pressure from landlords resulting from a certain set of circumstances, and we have to regard the legislation from that point of view and consider to what extent we are justified in existing circumstances in protecting tenants against the actions of landlords.

Mr. Hutchinson: But you cannot altogether discount the rights of owners.

Hon. J. T. TONKIN: We do not discount the rights of owners, but we have constantly to be considering under existing circumstances how far we should go in fairness to protect tenants against the pressure to which they are being subjected. Landlords are not being subjected to pressure; the pressure is on the tenants to force rents up or to force tenants out of the houses. Those are the two actions against which we have to try to safeguard the tenants and that is the purpose of the legislation. When we reach the stage where we say that tenants are not entitled to protection, this legislation will not be renewed but will go off the statute book, and then there will be an open go. But we have not by any means reached that stage.

Mr. Griffith: Of the 500 cases, you could not hazard a guess as to how many would be genuine, but you are convinced that there are a lot?

Hon. J. T. TONKIN: I did not quote any number. The hon. member asked for a percentage, but how can I possibly form a reasonable conclusion without having the data? I made the statement as a result of my own experience. I reason that if a certain number of persons bring their cases to me, that would be only a percentage of those affected in my district, and if the number be multiplied by 50 districts, we get a sizable figure.

Mr. Griffith: So you have not made any inquiries outside your own electorate?

Hon. J. T. TONKIN: I did not have to do so. The hon. member wants me to make a statement as to the number of persons amongst the 500 who own their own homes.

Mr. Griffith: I want you to assume that there are as many genuine cases as there are of the class you speak about.

Hon. J. T. TONKIN: What are genuine cases?

Mr. Griffith: A genuine case is a man who wants to get into his own home.

Hon. J. T. TONKIN: All of these applications represent cases of persons who want to get into their own homes. If they did not want to get their own homes, they would not be applying. However, experience shows that some of them want to get repossession for the purpose of selling.

Mr. Griffith: A very small percentage.

Hon. J. T. TONKIN: Let me read for the benefit of the hon. member a paragraph from the "Daily News"—I have not the date—headed, "Was Court Order Part of House Sale Plan?" The paragraph reads—

> Under the pretence that she wanted her house for herself, a woman who obtained an order for the eviction of her tenants, immediately sold the house. Her former tenants were now forced to live in a shed.
>
> This was said in Perth Police Court today when Catherine O'Brien, of Vincent-st., Perth, was charged with having sold her house in Dalkeith-rd., Nedlands, without the consent of the court, having recovered possession of the premises by an order to quit.
>
> Tenant Noel Oakley Albert Hodgkinson said that, if pressure had not been brought to bear on him, he would have stayed longer "to obviate the necessity of bringing misery to my wife by forcing her to live in a tin shed."
>
> Counsel for O'Brien said there had been no compulsion on Hodgkinson to leave the premises. He had every right to stay, being a "protected person."

That sounds rather strange, seeing that the case was taken to the court with a view to getting the tenant out. The tenant went out and took his wife to live in a tin shed, and the woman who owned the house sold it, but because more than six months had elapsed before action was taken, no penalty could be imposed and she got away with it.

Mr. J. Hegney: She said she wanted the house for herself.

Hon. J. T. TONKIN: That is what she pleaded. There was no fine and there was no punishment of any sort, but the tenant had to go out and take his wife to live in a tin shed. Admittedly one swallow does not make a summer, but I venture to say that this is not the only case of the kind. As a matter of fact, I know that it is not, and so does the member for Canning.

Mr. Grayden: A majority of the 500 would not be of that type.

Hon. J. T. TONKIN: I hope not. The amending Bill, which the Government has brought down, will in some degree improve things for the tenants, but it will still leave the Act a thing of patches freely interspersed with incongruities, inconsistencies and absurdities, which, as Mr. Justice Virtue has said, it is at present. I had hoped that the Government in the light of experience and knowledge, would have made a fresh start with the legislation, and not have attempted to patch up a thing of patches, shreds, incongruities and absurdities. But no, we are to try some more patchwork. So we have to do the best with the material in our hands. I do not want to make a mere statement that the Act will still contain contradictions. I want to afford some proof of it.

To give an idea how difficult it is to get a proper grasp of what the amending Act provides, I want to quote this little occurrence: I listened carefully to the Minister when he was outlining and explaining the provisions of the Bill, and I was so struck with several observations he made about the measure that I subsequently looked up the relevant sections and endeavoured to come to the same conclusions as the Minister had. I spent two days, off and on, turning one of these provisions over in my mind in an endeavour to arrive at what the wording really meant. I heard the Minister say one thing in connection with it. What he said was contradictory, and I was puzzled because we know from experience in this House that his explanations are invariably lucid. I could not understand the obvious contradiction in the statement he made. He said—

> So, if the Bill is passed there will be no protection to tenants who first occupied the premises after the 31st December, 1950, or who had not occupied them for 12 months prior to that date.

That statement indicates that something which the tenants had before was being taken away, and they would be in a less advantageous position after the passing of the measure than they are at present. The Minister followed that remark with these words—

> This will prevent old tenancies from being terminated for no other reason than that it is intended to relet to the same or some other tenant on better terms; in either case evading the spirit and intention of the Act.

That was an intention the Minister had in mind in connection with the protection of tenants. Subsequently I referred to the provision in the Bill, and endeavoured to read into it one or other of the Minister's explanations and, as I have said, I spent two days studying the phraseology and turning it over in my mind, trying to come to a conclusion. Eventually I had to give it up; I just could not make it read as the Minister did. Then I had to come to my own conclusion as to what it really meant. I saw four possible meanings, any one of which would have satisfied me to a degree. By a process of elimination, I got rid of all but one, and

I said, "This is the meaning of it. So far as I am concerned, I think this is the intention." Having got to that stage I said, "If this is the intention, what is its purpose?", and I could not see much use in it at all.

The next task which confronted me was to convince some of my colleagues that the provision in the amending Bill really meant what I thought it did; and I had a difficult job because two of my colleagues are not easy men to convince. After a time, they agreed with my interpretation. My satisfaction was not of long duration, however, because within about half an hour I received, by courtesy of the Deputy Premier, the opinion of the man who drafted the clause. If anybody ought to know what it meant, he should, and, lo and behold! he did not say it meant what the Deputy Premier said it did, nor did he say it meant what I thought. He said something which appears to me to make it extremely absurd. I shall quote his opinion, but I must first explain that the amendment of 1950 provided that the protection of tenants should not apply to any tenancy entered into after the 31st December, 1950. We only continued the protection of tenants, who were tenants, up to the time of that amendment. We said, "So far as subsequent tenancies are concerned, there is no protection." That was the amendment of 1950. The amending Bill now provides that a lessor is able to serve notice upon his tenant—

> (a) If the premises have not been leased before the 31st day of December, 1950; or

That is the same as the existing Act—

> (b) Having been leased before that day, the premises have not been leased for a period of at least 12 months.

This is what had me puzzled. The draftsman had this to say—

> This means that having been leased at some time or other prior to the 31st December, 1950, they have to be vacant for 12 months before the tenant loses the protection of Section 15.

Hon. J. B. Sleeman: The people were not told that last year.

Hon. J. T. TONKIN: What has me puzzled is how there can be any tenants to get protection if the premises are vacant.

The Minister for Education: They are not vacant.

Hon. J. T. TONKIN: The Parliamentary draftsman says they have to be vacant for 12 months before the tenant loses protection. Suppose they are vacant for 11 months—and there is no tenancy if they are vacant—is there any protection then for the tenant? I say only this, that it is most difficult to reason absolutely in the abstract without concrete cases to fix ideas. This particular amendment has caused me hours of thought, and I have to admit that I frankly do not know what is intended or meant by it. I would not be prepared to support it until it is clarified sufficiently to enable the average man to understand it.

This is not the only place in the measure where there is ambiguity. The Bill intends that where an owner applies for possession of his premises, he shall not have to prove any hardship. He cannot get it if he just requires it as the Act says—if he just wishes to have it—but must reasonably need it; and he has to prove, in connection with reasonable need, that at the time of making his application he was not living in a house which he owned, or which he was in the course of acquiring. The first statement sounds all right, but that permits a man who is living in a house of his own, and who owns several others, to sell the one that he is in, and then immediately apply for one of the others on the ground that at the date of the application he was not living in his own house. So, having gained possession of house No. 2, he can proceed to sell it and then make a further application for one of the others, on the ground again that he is not living in a house of his own, and by that process he can end up by selling the lot and having all his tenants evicted. That is what this amendment provides, so far as I can see. I do not think the Government intended that. So, we propose to tighten it up in order to prevent the occurrence of what I have just instanced.

We also wish to ensure that a person who contravenes the Act by evicting a tenant on false pretences shall not escape the penalty of his act because the Justices Act says that action has to be taken within six months. We want to provide that such a person, if he takes that risk, shall be under the penalty of the risk all the time. It is not much good providing heavy punishments if it is easy to evade them. I know of a case where a man went into the court and swore on oath that he required premises for his own occupation. I was in court when he did it.

The day after the tenants were forced to get out—and I might say that all the Housing Commission could do for the tenants at the time was to put them in a tent; and the woman was a cripple—and go into a tent at Melville, the owner advertised the house for sale. I cut the advertisement out of "The West Australian" and gave it to the State Housing Commission, telling them what I thought had happened, and asking them to take action. The matter was passed on to the Crown Law Department and from there to the police who made inquiries. When police officers went to the house they found other tenants there, but not the owner. They asked the tenants if they had bought the place, or if it had been leased to them and they said, "No. It

belongs to the man who is reputed to own it. He is living here. He has allowed us to come in and share the accommodation. We are just staying here. We are friends of his. This is his room."

Sure enough, a room had been set aside for his use. He used to go there now and again to sleep at night. He did that for 12 months, and when the period was up and he was in the clear, the people who had gone into the house on the distinct understanding that they were going to buy it, went along to him to complete the deal. But, he being clear of the law, said, "No, I am not going to sell to you for the figure I mentioned. Houses are dearer now. I want another £500." When they said they would not pay it he said, "Get out," and he served notice of eviction on them, and they came to me. I told them how they, by their attitude, had made it impossible for me to have justice done for the original tenant, and they explained that they were in such dire circumstances and desperate straits for a house that they thought what they had done would get them a home; and they admitted they had not considered anybody else.

Sitting suspended from 6.15 to 7.30 p.m.

Hon. J. T. TONKIN: Prior to the tea suspension I was referring to the case of an owner securing eviction of his tenant and the following day advertising the property for sale and being able, by a subterfuge, to prevent the law from taking its course. As a result no punishment was meted out, the owner was able to evict the tenant who had to put up with all the attendant hardship and to benefit from the action he had taken. In explaining that case I mentioned that I subsequently found out all the particulars of the arrangement entered into between the evicted tenant and the landlord, and pointed out to the tenant the position in which he found himself when the owner refused to complete the deal which had been entered into tentatively and had asked for a higher figure.

My advice to the tenant was that he should take no notice of the order which had been served on him, but when the time came to go to court he should cite the circumstances under which he had gone into the place. I told him that I considered he would not be obliged to do that, because once he had refused to get out I did not think the landlord would take the risk of going to court in view of what had transpired with the previous tenant. I have not heard what has happened since, but the tenant has not returned to me and I surmise that the owner has been afraid to proceed.

I believe the legislation should be amended to provide that, despite the provisions of the Justices Act under which an owner gains possession of his property through telling falsehoods, and where he does not require the property for his own use but desires to get the tenants out in order to sell the property, such a person should be liable to a penalty and all the facts made public. He should not escape penalty simply because he is able to cover up the particulars of the transaction for a few months. There is some ambiguity in the clause dealing with shared accommodation. However, I am pleased the Government has taken this action—it is to be commended for it. This shows a full realisation of what has been happening and a genuine attempt on its part to put the matter right. Nevertheless, I consider there is still ambiguity in the wording of the clause which will enable those persons who desire to do so to evade the Act. For example, this particular clause in the Bill reads—

> On and from the coming into operation of the Increase of Rent (War Restrictions) Act Amendment and Continuance Act, 1951, and subject to the provisions of subsection (4) of this section, the provisions of the last preceding paragraph shall apply only in cases where a portion of the shared accommodation is occupied by the lessor, and all or part of the remaining portion of that accommodation is let to not more than one tenant . . . .

It is obviously the desire of the Government that in the case of persons who previously did not let their property, but who had some vacant rooms in them and could be induced to let such rooms to tenants if they knew that in the event of their getting unsuitable tenants they could take steps to evict them, those persons ought to be encouraged and protected. It was intended, when the Act was amended, to cover that position, but unfortunately it left the way open, as the Minister explained, to a person being able to serve notices on, say, 30 odd tenants who were supposed to be sharing accommodation in blocks of flats or residentials. The wording of the clause is intended to provide that this protection for tenants shall only apply when there is more than one tenant in the property shared with the lessor. However, as it is worded, I think it makes it possible for that which is happening now to continue, because it reads—

> . . . . where a portion of the shared accommodation is occupied by the lessor, and all or part of the remaining portion of that accommodation is let to not more than one tenant, ...

It would be possible to have a place which could be conveniently divided into four or five sections for letting separately. A lessor could reside in one section and if there were only one tenant in each of the other sections then that would meet the provisions of the Bill, namely—

> where a portion of the shared accommodation is occupied by the lessor, and all or part of the remaining portion of that accommodation is let to not more than one tenant . . .

The Minister for Education: I am going to accept your amendment to this clause.

Hon. J. T. TONKIN: That shows I have convinced the Minister that there is some ambiguity in the clause which requires to be remedied. I will therefore not proceed further on that one. On this side of the House we feel that there is a weakness at present in regard to the control of rents. The Act provides that if the lessor or the lessee should require the rent inspector to fix rents, then application can be made to him and he can come along and fix the rent accordingly. In practice, that does not work out because the lessors are, for the most part, satisfied with the rents they are receiving for the rooms they are letting.

Mr. Totterdell: That is what you think!

Hon. J. T. TONKIN: I know they are in the particular cases I have in mind because the landlords have already given notice to the tenants and entered into new leases with them. Therefore, they do not apply to the rent inspector and the tenant is afraid to apply because if he did so, and the inspector appeared at the door to make inquiries, the landlord would know immediately that it was the tenant who had made the application and forthwith the tenant would find himself in the street. Because the tenants know it would be difficult to find another place in which to reside they refrain from asking the rent inspector to visit them, with the result that they pay an exorbitant rent. I have been told of some cases, and I know the Minister is aware of some, where the rent runs into pounds and pounds more than it ought to, because the tenants know that if they ask the rent inspector to come around they will have no place to go should the landlord decide to take action against them. The only way to deal with the situation is to make it possible for the rent inspector, of his own volition, to attend where he has reason to believe that the rents are not what they ought to be.

Mr. Totterdell: Either way?

Hon. J. T. TONKIN: Yes, either way; at the request of the lessor, at the request of the lessee or of his own volition.

Mr. Totterdell: Fair enough.

Hon. J. T. TONKIN: In that way we will obtain a better control of rents, effect less hardship on the tenants, and less pressure on the landlords to evict their tenants in order to enter into fresh leases at higher rentals, because they would know that the rent inspector would be down on them at any tick of the clock and would thus have to explain their actions. That would be a deterrent to keep rents down, which is what we desire. So I hope the Government will think favourably of that suggestion.

With regard to the provision which deals with the owner who does not live in a place that he owns but who wants possession of his property, that it should be sufficient proof of reasonable need if he merely states he is not living in the place he is in grave need of acquiring, we believe it is unjust to put in the Act a provision that can be evaded. That encourages a man or woman already living in a place, which he or she owns, in addition to five or six others, to sell such place and then, having sold out, to make application under this provision. I have a letter here which bears out that point. Keeping to the kernel of it, the letter reads—

> From account of proceedings in yesterday's Parliament from "The West Australian" today, may I say that most amendments proposed are fairly satisfactory, but the whole protection given to the tenant seems to me to fall to the ground under the section (extract enclosed) which allows the owner possession of a home "without inquiry" by a magistrate.
>
> The facts in my own case are that under legal notice, dated 11th April, 1951, the owner requires possession of the above Flat (A) on 11th October, 1951. He was not living then in a house of his own because he had previously sold the one (of three) he was living in and negotiated with the proceeds the purchase of this block of four flats. On the 19th August, 1951, another flat (C) in the block was voluntarily vacated by the tenant. The owner and his wife moved in (Flat B) has a home nearing completion which should be ready for occupancy within two or three weeks. The other tenant (Flat D) has also a home in course of erection. The owner well knows these facts.
>
> I am a retired civil servant of 50 years' service, age 72, wife a little younger. We have been in continuous occupation here for over 13 years, yet the owner will not allow us to remain here, or the alternative tenancy of one of the other flats becoming vacant. He now intends furnishing the latter and charging an exorbitant rental. In April, 1950, he took eviction proceedings against me, but the case was dismissed, mainly because he did not intend to occupy this particular flat. He had arranged with the tenant in Flat C to occupy ours and go into Flat C himself, where he now is, but because this notice to quit was issued when he was not then living in his own house, it seems my wife and I, at this late stage in life, must shortly go out on the cold world because although no-one could have done more. I claim we have reached a desperate stage. Suitable accom-

> modation of a decent standard to which we have been accustomed is not offering. In all the circumstances, I consider the case one for a magistrate's decision from a point of justice and hardship.

That appears to me to be a very fairly written letter, and it serves to show under what conditions tenants may be evicted simply to enable landlords to make more money. The amendment embodied in the Government's Bill would enable that particular landlord to have the tenant evicted because at the time he made his application he was not living in a home which he owned, although he owned several and had previously sold one. Surely we will not agree to that proposition! That section of the Act should be tightened up to provide that in a case where the owner has sold his property in order to qualify under this particular provision, he shall be required to do something more than prove he was not living in a house of his own at the time he made his application, but should be made to prove that he reasonably needs the property for himself—and the magistrate will be able to determine that. We shall endeavour to secure an amendment along those lines to tighten up the position.

As to the amendment in the Bill with regard to leave or license, the Government has gone a long way along the right road. The amendment shows that the Government has a proper appreciation of what has been occurring in this matter, and its amendment appears to me to be a genuine attempt to block up a loophole in the law. However, I would like to go a little further, for two reasons. There are quite a number of houses in Western Australia where the tenants do not require to use all the space they have leased. In some cases they desire to sublet. When such a person asks the owner to allow him to do so, the owner resolutely refuses to do so, without any good reason whatever. He simply says to the tenant, "No, you cannot sublet." That means that the lessee who desires to make further accommodation available, is prevented from doing so because the landlord just will not allow it. In such a case, the tenant ought to be able to appeal to the court.

Mr. Totterdell: Suppose he wants to charge more rent than he is paying?

Hon. J. T. TONKIN: I will come to that phase. My contention is that in such a case the tenant should be allowed to apply to the court and the court should then determine whether or not the tenant should be allowed to sublet and, if so, upon what terms. The court should be in a position to say that the tenant could sublet and that the rent should be increased by 5s., 10s., or £1 a week. That would prevent a landlord from simply digging his toes in and saying that in no circumstances could the tenant sublet part of the property.

Mr. Totterdell: Have you some instances of that sort of happening?

Hon. J. T. TONKIN: Yes, I have some. There is another angle of the Act where we amended it to provide that if a person allowed a relative to stay overnight without the permission of the landlord, that tenant became automatically liable to eviction. That has created a very bad position indeed. The Bill seeks to deal with that situation by providing that, from the standpoint of leave or license, a tenant that allows temporary or casual occupation of premises rented by him shall not be liable to eviction. I can visualise cases of this kind: A tenant allows a relative or friend to come into the property for what appears to be a very short period, in the first instance; but then something occurs. It might be an accident or it might be illness, some development in the family, a sudden marriage.

There might be a hundred and one different reasons that would require a person to stay, instead of a few days, a couple of weeks or so. In that way the tenant could unwittingly commit a breach and would become liable to eviction. It is reasonable to suggest that in such a case the tenant ought to be allowed to apply to the court for relief from the provisions of the Act and the magistrate, upon inquiry into the circumstances, should be in a position to grant relief, subject to whatever terms and conditions he thought fit. If that were agreed to, the landlord would be adequately safeguarded against imposition and the tenant, on his part, would be safeguarded against the consequences of any unwitting breach of the law. I do not think anyone wants a person punished for an unwitting breach of the law arising out of a desire to provide further accommodation. I hope the Government will be reasonable in this matter and will accept our suggestion.

The Minister for Education: I think that point was satisfactorily disposed of under Mr. Justice Virtue's judgment in a case that came before him in June or July. I have not the particulars with me or I would give them to you.

Hon. J. T. TONKIN: I am not aware of that, and possibly that might be so; but I think it would be better to make the alteration I indicate in the Act itself. There is the other important matter of the person in business who commenced with a very short-term lease and built the business up. In normal circumstances, that person could expect a renewal of the lease on altered terms. Such persons have been refused renewals of their leases because this legislation allows owners to take

back the businesses for nothing, although the individuals who had built the businesses up had paid substantial amounts for goodwill. I have heard many people argue that when a lease is granted, the tenant should be expected to get out at the end of the lease. In ordinary circumstances, that is not so. It is true that in some cases, in normal times, tenants are obliged to get out at the end of their leases, but there are very few such instances. It is only in these difficult times when premises are at a premium that a landlord takes the extreme step of refusing the renewal of a lease.

When a tenant enters into a lease, it is not for an indefinite term, the idea being that circumstances might change and, in the interests of the tenant, the renewal of a lease might mean a reduction in his rent. On the other hand, in the interests of the landlord, the renewal of the lease might mean increased rent. That is the reason why long-term leases are not made. Usually, however, we can anticipate that at the conclusion of the first lease a renewal will be granted upon other terms. The Government itself has leased a number of properties, such as public halls, which are leased for the purpose of schools. They are not leased for periods of 20, 30 or 40 years; they are leased for short terms in the knowledge that at the end of the lease a renewal can be anticipated on agreed terms. That does not happen today in connection with businesses.

We find that perhaps four years ago someone paid £500 for the goodwill of a business with a three-year lease. He does so in the belief that at the end of the three years he will be able to continue the business with a further lease on different terms. When the term is up, the landlord may refuse to renew the lease and as has happened in some cases, he has gone about boasting that he will get Mr. So-and-so's business back for nothing. I can give the Premier instances of where that has occurred. I have one here that is an excellent example of what has happened. The gentleman who wrote to me says—

> We took over a shop and plant on November 1st, 1946. It was a run-down business doing a turnover of £35 to £40 weekly, say, £2,000 per annum. The rental of the shop was £260 per annum. The turnover has increased to £6,000 per annum and is showing a slight upward tendency.
>
> We have spent £406 on new plant and renovations, and my wife and myself have worked an average of 80 hours weekly to build up the business. We have the goodwill of all our clients, many of whom came from other suburbs for our service.
>
> When we took over the business, we did so on a three-year lease which has expired, and the landlord not only refused to give us a fresh lease but also refuses to allow us to sell our business to anyone whatsoever.
>
> Through his solicitors, he has served us with a notice to quit by the end of September next and leave an empty shop.
>
> We have been offered £2,000, including stock and plant valued at £800, for our business which, I venture to say is one of the best of its kind in the metropolitan area, and we have established our good name with forty different business houses.
>
> Our landlord and his wife have told some of their friends that they intend to reopen the shop themselves for a few months and then resell. They are old people and very well housed and are very comfortably off and do not need the premises to live in. If we are put out of business through this unjust and cruel action on their part, they will be taking our living from us and robbing us of at least £1,200 goodwill. This only represents some return for us in the way of salary over four years, as we have put everything back into our business to build it up.
>
> We are both up in years now. My wife is 58 years and myself 69 years, so it is rather late to look for any other type of work. It will mean that we will have to sacrifice our stock and plant at a loss if we are put out of business.

That is by no means an isolated case brought under my notice. I have had some submitted by widows and by very old people who, by dint of hard work, have built up businesses, who have paid substantial sums for goodwill and yet have not been able to secure renewals of their leases, not because the landlords wanted to live in the premises but because they saw an opportunity to get back for nothing businesses that they had sold a few years before at substantial profits. I do not think they should be allowed to do that, and we should enact in this amending Bill something more than the Government has done so far. It is provided that a magistrate shall have discretion, up to a period of 12 months, to allow tenants to remain in possession until such time as they have been able to sell their stock. That is what the Government proposes, but I do not think that is enough. In a case where it can be shown that the landlord does not require the premises for his own use, we should provide in the Bill, that some compensation should be payable where the landlord wants to get back for nothing a business which he had previously sold for a substantial figure.

Mr. Totterdell: You cannot do that!

Hon. J. T. TONKIN: Why cannot we do so? It would merely be a matter of justice. Why cannot we do justice? The hon. member must know that if times were normal these landlords would not be wanting their

premises back but, on the contrary, would be encouraging their tenants to continue in occupation so that they could receive the rents.

Mr. Totterdell: Scrap the whole Bill, and we will get back to normal.

Hon. J. T. TONKIN: Would we?

Mr. Totterdell: Yes.

Hon. J. T. TONKIN: Scrap the Bill! To do so would be a course that even the most reactionary members of this community would not be prepared to take for a very long time.

Hon. A. H. Panton: Are you suggesting that the member for West Perth is a reactionary?

Hon. J. T. TONKIN: Scrap the Bill indeed! That would be the end of the Government.

Mr. Totterdell: No.

Hon. J. T. TONKIN: I am sure of it. To adopt such a drastic step could not be described as a remedy; it would be the first act towards suicide.

I feel that I have said sufficient to indicate our attitude on this side to what the Government is attempting to do. To sum up, we think the Government should have introduced a completely new measure, because this will still be a thing of shreds and patches, of incongruities and absurdities. We do not think it possible to get away from that by tackling the matter in this manner. Secondly, we feel that so far as the Government has gone in this matter we can go with it. The amendments are desirable. We require to remove some of the ambiguities which exist, in order to make the Bill do what we think the Government intends it should do. But we would like to go a little further, in the directions I have indicated, believing that the conditions of the time require that tenants should have greater protection than the Government has indicated by this Bill that it is prepared to give them. I repeat that legislation of this nature is not legislation in the interests of the landlords; it cannot be. It is legislation to protect tenants against landlords who are not playing the game. If landlords would play the game, we would not want this legislation at all; but because a number of them will not do so, we have to protect the tenants.

The Premier: There are some tenants who will not play the game, too, you know.

Hon. J. T. TONKIN: Of course there are; but this Act does not deal with that. There again, I would go with the Government if it were prepared to include in its legislation the protective provisions of the South Australian Act, which make tenants play the game. I have said that all along. Let us have a proper Bill on a proper foundation to meet the circumstances of our times, which will do justice to the tenants against the pressure and urge that must be there as a result of our difficulties, and will do justice to landlords in cases where tenants will not play the game. This does not give us that. It is only a patchwork attempt which, in my view, will continue the ambiguities and the incongruities mentioned by Mr. Justice Virtue. And I think that is bad legislation of this type because, much as some members, like the member for West Perth, would advocate that we should scrap this legislation altogether, the time for that to be done is some distance ahead.

As I have said, and I think I could prove in spite of what has been done with regard to building more houses, importing buildings, putting up prefabricated structures and so on, the housing situation was never worse than it is today; and because it was never worse, it affects the tenants most heavily. And as the position grows worse still and the housing difficulty increases, the pressure on tenants for increased rents and for getting them out of houses must continue. Therefore the need for protection of tenants must continue. That is the reason for this measure; and it would be just folly to believe that in a few months' time we could push the legislation aside and let things work out for themselves. We just could not do it.

I asked a question or two recently about an article I saw in an Eastern States paper. It had reference to an organisation called the Property Owners' Association, and in it a person named Smith had puffed his chest out and made reference to the fact that property owners in Western Australia had forced Parliament to make amendments to this Act last year. The Minister did not give me any information in connection with the matter.

The Chief Secretary: What type of information did you expect to get from me? I told you I did not know the man and knew nothing whatever about him.

Hon. J. T. TONKIN: That does not alter the fact that I did not get any information.

The Chief Secretary: What did you expect from me?

Hon. J. T. TONKIN: I did not blame the Minister.

The Chief Secretary: That is all right, then.

Hon. J T. TONKIN: I merely said that I did not get any information, which is true.

Hon. A. H. Panton: He was sympathising with you, as a matter of fact.

The Chief Secretary: That is not what you were implying.

Hon. J. T. TONKIN: I was not implying anything. I can assure the Minister of that. I did not obtain any information from him; that is all I said. Now this same association bobs up again and there is a reference to socialistic amendments. This organisation has pointed out that there have been very drastic penalties proposed. It says its members are law-abiding people

and take umbrage at this. I ask members what a law-abiding person has to fear from penalties, however big they may be. If a man is law-abiding, he cannot be subjected to a penalty, so it would not matter if the penalty were life imprisonment; it could not affect him. But it will affect persons who are not law-abiding; and the mere fact that this Property Owners' Association is concerned about these penalties indicates to me that the boot is starting to pinch. Its members feel that it might not be worth the risk they are taking, so we must not have these increased penalties that will stop their game altogether! Whether the Government listened to this association before or not—Mr. Smith said, in effect, it did; but the Minister said it did not, and I accept the Minister's assurance—I hope it will not take any notice this time. I do not know whether the association proposes to have a deputation to the Government in connection with the matter.

The Chief Secretary: Have you heard there is likely to be one?

Hon. J. T. TONKIN: No; but I would not be surprised if there were an attempt to introduce one. Whether there is a deputation or not, I hope the Government will not heed this reference to socialistic amendments and these increased penalties, because it is perfectly obvious that the existing penalties are no deterrent to persons who are not law-abiding. And, as law-abiding people have nothing to fear from penalties, our consciences should be perfectly clear if we impose substantial penalties in this Bill, knowing full well that law-abiding persons will not suffer, but that persons who take the risk might do so, if the Government will agree to extend the period of six months during which action may be taken.

While the present provision remains, too many people will be able to get away with evasions of the Act, because it takes a considerable time before things start to move in connection with these actions. On the face of it, we normally assume that everything is fair, square and above board, and that when an owner takes action for the recovery of premises he really needs them and is going to play the game. It takes a month or two before people roundabout wake up to the fact that a man is not playing the game. Then they have to make up their minds to inform somebody about it; and when information is laid, officialdom does not get things moving immediately. The relevant file may be on the table for a week or so; then it goes to somebody else's table for a week or so; and by the time the law starts to move, it is too late, and the bird has flown. We must try to overcome that in some way, and I think we might do so by an amendment such as I have suggested.

That indicates the attitude of members on this side generally. Some of them might have differences of opinion from the general case I have made out. They are free to speak for themselves on that matter, and I have no doubt they will. But what I have said gives a general indication of our attitude. We are glad the Bill is here. We think it is much too late, and should have been here long ago. We believe it does not go far enough; it should have been a new Bill, complete in itself, instead of a further piece of patchwork. But we have to deal with the material as we find it and, I suppose, be thankful for small mercies.

I hope members will regard every clause in the Bill impersonally and will scrutinise it carefully in order to see that we avoid a repetition of what occurred before. I trust that we will not be stampeded, or dragooned, or frightened by the attitude of anybody else anywhere else with regard to this matter, but that we will consider the legislation as necessary, have regard to what is required by the circumstances of the time, and pass legislation accordingly; so that we can feel, when it is complete, that we have done the fair thing and the reasonable thing in the circumstances to deal with a statute which we might prefer was not necessary, but which we acknowledge is undoubtedly necessary at the present time.

MR. GRIFFITH (Canning) [8.11]: I desire to make one or two observations on this Bill. I want first to refer briefly to the legislation that was introduced here last year, and to some comments that were made by the member for Melville. I wish to point out particularly that his attitude to this Bill this evening, and before the tea adjournment, has been totally different from that which he adopted when he spoke on the measure introduced last year. I have taken the trouble to have a look at his speeches on the second reading and at the Committee stages of last year's Bill, and none of the things that he spoke about in this House today seemed to have come into his mind at that time. When I made an interjection during his speech on another occasion concerning this matter, the hon. member pointed a damning finger at me and said, "You are one of the members of the Committee appointed by the Government to inquire into this Bill."

Hon. J. T. Tonkin: That was true.

Mr. GRIFFITH: I did not deny it then, and I do not do so now.

Hon. J. T. Tonkin: I only stated a fact.

Mr. GRIFFITH: Oh, yes! Although I have not been here very long, I am becoming cognisant of the hon. member's statements of fact. He pointed a damning finger at me as though to say that I, as an indvidual, and a couple of other mem-

bers of this House who were appointed by the Government to inquire into this matter and make recommendations, were anxious to put tenants out into the street. May I assure him that it was quite the contrary? As I told the House at the time, and as I tell the hon. member now, that idea was very far from my mind and from the minds of my colleagues who made investigations into this matter. What we desired to achieve was some equitable measure to produce to the House, that every member could consider in view of the circumstances that existed at the time. Lying behind the whole thing was a principle, a principle by which even the member for Melville lives.

Hon. J. T. Tonkin: How would you spell it?

Mr. GRIFFITH: The hon. member is a schoolteacher and he should know.

Hon. J. T. Tonkin: Does it end with "pal"?

Mr. GRIFFITH: It is the principle of ownership; the principle to which the member for Melville agrees—that a man who owns a home and genuinely desires to gain possession of it in order to live in it, should be permitted to do so. I sincerely hope that in the deliberations which are to follow on this measure that principle will not be altered. I also remind the House that it has been put forward to me in certain parts of the metropolitan area that the member for Melville has done a wonderful job for the public. In certain circles they call him "the champion of the tenant."

Mr. Totterdell: The saviour.

Mr. GRIFFITH: I did not think he had yet reached that class.

Hon. J. T. Tonkin: So I am qualifying for a halo!

Mr. GRIFFITH: When the amending legislation was introduced into this House last year it was dealt with and sent on to another place, but it did not come back to this Chamber in the same form as that in which it left here.

Hon. J. T. Tonkin: And it will not this time, either.

Mr. GRIFFITH: Apparently we have with us some members who can look into the future. As I have said, the Bill came back to this Chamber in a somewhat altered form, but do not let us forget that it was agreed upon, having been subject to the deliberations of a committee of members representing both the Government and the Opposition in this Parliament. When the member for Melville makes damning accusations about the lack of foresight of the Government, we should bear in mind the composition of that committee of managers and the fact that the legislation was passed eventually by this Chamber. The member for Melville referred to a cutting which I think was from a journal of the Property Owners' Association.

Hon. J. T. Tonkin: The cutting was from "The West Australian."

Mr. GRIFFITH: I have here a cutting from the "Daily News," with reference to the Rentpayers' Association.

Hon. J. T. Tonkin: Has that reference to this legislation?

Mr. GRIFFITH: Yes.

Hon. J. T. Tonkin: Then you cannot read it.

Mr. GRIFFITH: I intend to.

Hon. J. T. Tonkin: What is the date of it?

Mr. GRIFFITH: It is dated the 20th June, 1951.

Hon. J. T. Tonkin: Then that does not refer to this legislation.

Mr. GRIFFITH: Yes, it does.

Hon. J. T. Tonkin: This legislation was not introduced at that time.

Mr. GRIFFITH: May I read this cutting, Mr. Speaker? The member for Melville can then draw his own conclusions.

Mr. SPEAKER: The hon. member may proceed.

Mr. GRIFFITH: It is headed, "A Bit of Action Wanted" and reads as follows:—

> I'd like to bring to the attention of readers the dire plight hundreds of rentpayers face on June 30—being flung on the streets.

Has the member for Melville no comment? To continue—

> The Act which enables property owners to resort to this was passed by the present Government with the assistance of former Labour Premier, Wise. It's recognised now that the Act was drafted crudely—

Hon. J. T. Tonkin: Is that Plummer-Leith?

Mr. GRIFFITH: —

> —but this is no excuse, for it appears from the pages of Hansard that Mr. Wise made no attempt to safeguard the ratepayers.

Hon. J. T. Tonkin: That is Plummer-Leith. He was on a deputation that went to the Chief Secretary.

Mr. GRIFFITH: To continue—

> Scores of us have had our names filed at the Housing Commission for years, but when we visit there we're told we have no redress until we're actually thrown out on the road.

I know why the hon. member does not wish me to read it. This is the part the member for Melville will like—

> Now a Fremantle legislator pretends to take an interest in our affairs—

I do not know who that would be, but the member for Melville comes from down that way.

> —but we are not deceived; we know he has been deputed by the Parliamentary Labour Party to make political capital of our distress. I trust this letter will stir to action the citizens of this State to demand, through their Parliamentary representatives, that the Government take adequate steps to remedy the present intolerable position without delay.

Hon. J. T. Tonkin: Do you know that the rentpayers repudiated him and sent me a letter of apology because he had written that?

MR. GRAHAM (East Perth) [8.20]: There is no question but that this legislation will be passed by Parliament during the present session, though probably in a form different from what many of us visualise. I believe the measure is largely one for consideration in Committee and I appreciate the invitation of the Minister for Education that we should survey the Bill in a non-party frame of mind. It is a most important piece of legislation because it affects closely so many of our people. I am sure every member of this Chamber regrets the necessity for restrictive legislation of any sort but, so long as there remains the present terrible shortage of homes for the people, it is obvious that something along the lines of the Act as it at present stands is essential to protect those persons who are unfortunately placed.

The documents that members have before them number three. We have the parent Act, the amendments made last session and the Bill that we are now considering, and we are therefore presented with a difficult problem if we are to follow exactly what is intended. It is with the greatest trouble that one can form anything like an intelligent interpretation of the legislation. I had hoped that the Government would scrap the existing legislation and introduce an entirely new measure because after all, if it is difficult for us—members who are at least reasonably familiar with the reading of legislation—to interpret it accurately and without considerable trouble, the problem confronting the people most affected must be well nigh insuperable.

Notwithstanding many criticisms that have been made, I feel that the legislation, as finally passed after a conference of managers of both Houses last session, was in essence reasonably fair, and that the principles enumerated in it appealed to the great majority of the people, irrespective of station and circumstance. Because of the exigencies of the times, and the experience gained since then, it is obvious that there is what I might refer to as some necessity for a tidying up of the legislation, as it appears to contain some anomalies and require clarification in a number of respects. I repeat, however, that, in my considered opinion, the basic principles of the legislation are fair. I suppose it is too late at the present juncture to suggest that the Act be scrapped and an entirely new measure introduced.

I can assure the Minister that even if there is made available a consolidated reprint of the entire legislation after the present Bill is passed through Parliament, it will still be to a great extent a thing of patches, as it has been so vividly described. Surely we should have some regard for those who would be compelled to operate under the measure—honest and conscientious citizens whose desire is to ascertain exactly what their position under the legislation might be. In my opinion it was exceedingly bad taste—and I think exceeding the functions of the gentlemen concerned—for Magistrate McMillan and Mr. Justice Virtue to pass censure upon the legislation. Surely it is their duty and responsibility to interpret legislation and not to pass comment and criticism on the efforts of Parliament which, after all, is the highest judicial body in Western Australia.

Mr. Hutchinson: Hear, hear!

Mr. GRAHAM: There are, as I have said, a number of matters in the measure that require attention when it is in the Committee stage. In some cases the proposals of the Government—so far as I am able to read them—are meaningless, and in other directions I would like to know from the Minister exactly what is intended and would seek his co-operation in taking the provisions of the measure a little further in some directions. As an illustration, I had a discussion with the Minister the other evening with regard to the point that an owner may obtain possession of premises for occupation by himself or by his married son or married daughter. It is now proposed to extend that provision so as to enable the owner to regain possession of his premises for his mother and father.

Mr. Bovell: What is wrong with that?

Mr. GRAHAM: I wondered whether that could be extended, with proper safeguards, to include a mother or father separately. We should consider the case of a widow or widower, either of whom could possibly have a certain number of young children. I realise that safeguards would be necessary because, without them, all an owner would have to do would be to bring his mother and father and sons and daughters into the question and by using sufficient subterfuges obtain repossession of perhaps half a dozen houses.

Another matter that I discussed with the Minister for Education—it appeared to me to be an anomaly—was that a man cannot obtain repossession of a house which is his for his own wife. The obvious retort is that a man should be living with his wife and that, I suppose, is as it should be, but I know of a case—I outlined it to

the Minister—where the man concerned has obtained a business in another area and, notwithstanding the attempts he has made over a considerable period, it has been impossible for him to obtain accommodation for his wife and family in that centre. He owns a house in the metropolitan area, and, though he would naturally prefer to have his wife and family living with him at his place of business, when he finds that impossible he wishes to know why the legislators in their wisdom have made no provision for a man under those circumstances automatically to be able to repossess his home in order to provide for his own family. Here again, if members agree with the point of view I have briefly outlined, there would be a necessity for ample safeguards.

I am not particularly happy with the alteration in the wording from "an owner requiring premises for his own occupation" to the new form of "reasonably needing." When this is read in conjunction with the clause that says hardship shall not be taken into account when a case appears before the magistrate, I think it may be successfully argued that every reason that one could imagine being submitted by an owner in a desire to obtain his own premises may be interpreted by the magistrate as being a hardship. The owner could say that he required his home for himself and his family because of friction where he was living; because of overcrowding or a nuisance created by his children if they happened to be living with the grandparents, or friends or relatives.

All these things which would establish that a person reasonably needed a home could be interpreted by the magistrate as being points of hardship. Accordingly, notwithstanding the easement in the situation that was made by Parliament last session to allow of automatic evictions in certain cases, we could well be confronted with the situation where the magistrate once again determines upon every single case. I feel that that would be a retrograde step. It is important that every effort should be made to stamp out rent racketeering and I sincerely hope that the majority of members will accept the amendment which has been foreshadowed by the member for Melville.

There are some classic examples, of which members are well aware, of this overcharging. The name that springs instantly to one's mind is that of Clara Spanney. There is no need for me to recite to this House all the pretexts that she has used in order to receive a total rental of anything from £5 to £15 for a ramshackle place, by letting each room to two or three people, usually New Australians. For the reasons pointed out by the member for Melville, if any complaint is made to the rent inspector Miss Spanney knows immediately the source of the report; it could come only from the tenants. These tenants have been in occupation since the 31st December last year and therefore it only requires her to give them one week's notice and out they go.

It is interesting to reflect—and here might I suggest that I am demonstrating how impartial I am in this matter—that in 1945 and 1946, when my Party comprised the Government and I sat on the other side of the House, I suggested to the Government, on both occasions when this legislation was before us, that action should be taken to amend the Act to allow rent inspectors of their own volition to check up where overcharging was suspected. Unfortunately, on both of those occasions, the legislation then before us was to delete "1944" with a view to inserting "1945" and "1945" with a view to inserting "1946"—in other words extending the legislation for another 12 months in each case. So it was impossible for any private member to amend the legislation then being considered by Parliament. I do not intend to weary the House with reading my remarks in 1945, but I wish to quote a few words from the address that I gave on this matter in September, 1946. Referring to the rent inspectors, I stated—

> Today if one of these officers calls at a home, the landlord knows perfectly well that his visit is for the purpose of making inquiries because the tenant has lodged a complaint. That acts as a deterrent and so many of these higher charges are levied because tenants are afraid to move in the matter. If there were a number of inspectors who of their own volition were to carry out a systematic check, rent control would mean something, whereas it is comparatively meaningless now because of the small fraction of people in a position to lodge a complaint or take action in view of the position they would find themselves in if they took that step. They know that if they experience difficulties with their landlord, it is practically impossible for them to secure accommodation elsewhere. If they were to take steps to prevent an increase of rent or to secure a slight reduction, they know the result would be to incur the displeasure of the hungry landlord and the whole atmosphere of the household would be so completely unsettled that tenants prefer to pay extortionate rents rather than to take proceedings.

Those suggestions were made in 1945 and 1946. The amendment is long overdue and I think the Government would be taking the proper step if it agreed to the suggestion being made again this year. It is a simple matter to criticise and find fault with the present legislation. It is necessary, as I think it is genuinely agreed, that where there are anomalies and injustices, and where some clarification is obviously needed those steps should be

taken. But I say to all members that so long as we are confronted with a position where we have 120,000 families, and only 100,000 houses, no legislation can correct the position. Irrespective of how long we deliberate it is impossible for us to bring down legislation which will not bear harshly on one section or another.

There are, in the rival groups—landlords and tenants—persons without scruples or principles; that occurs on both sides and it is easy for one member to quote examples of where landlords have done—as indeed they have done—most outrageous things in order to circumvent the law, and obtain possession of their premises for any reason but that they genuinely require them for themselves. It is equally possible for another member to give examples of tenants and their behaviour which would justify or entitle them to no consideration whatever. But I believe there is a middle course.

By and large landlords are a reasonable and decent band of people and, generally speaking, tenants are prepared to play the game and look after the properties that for the time being they are occupying. Accordingly, the principles of the legislation should be drawn to cover the great majority and I am unable to see why an injustice should be perpetrated against the great majority because of the misbehaviour of a limited number. But at the same time, because there are some who are prepared to go to any lengths to defeat or circumvent the law, certain safeguards are necessary and somewhat naturally they are irksome to the owner of principle and decency. However, those safeguards are essential.

To get back to my assertion that this is a problem which will be with us until there is adequate accommodation, I refer to a question I asked the Minister for Housing several weeks ago. In reply to my question the Minister stated that at the 1st July this year there were no less than 17,429 outstanding applications on the books of the Housing Commission. Of course there would be very many more thousands—not people but families—who are living under poor conditions, unsatisfactory conditions, but who have not yet made application to the State Housing Commission. I suppose we can estimate the average family unit at approximately four which means that accommodation has to be found for between 60,000 and 70,000 souls in Western Australia. If I might digress for a moment I again urge upon the Government the necessity of doing something to allow the erection of homes of a somewhat lesser standard than that to which we are generally accustomed. Surely experience has shown us that if we erect homes brick by brick, and tile by tile, with all the modern accessories and appurtenances, no headway can be made.

Mr. Brady: They are building sub-standard houses out in Guildford now. We do not want any more.

Mr. GRAHAM: As a rule a house is sub-standard because of the type of person living in it.

Mr. Brady: Not necessarily.

Mr. GRAHAM: Not necessarily, but as a rule.

Hon. J. B. Sleeman: Have you seen these huts?

Mr. GRAHAM: Yes. I was not born or reared in a mansion myself.

Hon. J. B. Sleeman: You do not look any the worse for it either.

Mr. GRAHAM: I daresay the people to whom the member for Guildford-Midland made reference will not be any the worse because of that fact, either.

Mr. Brady: That is a matter for the future to tell.

Mr. GRAHAM: When whole families—frequently comprising a man, wife and three or four children—have to sleep together in single rooms, live in those rooms by day, prepare and eat their meals in those single rooms, it is most distressing. In some of these old-fashioned block houses—they might be termed tenement houses—there are many families living under such conditions. In those cases the choice is between overcrowded and rotten conditions and little homes of their own, however humble. It is far better that these people be given modest cottages rather than that they should be condemned to wait for years until such time as we can provide mansions of modern proportions. I have spoken in this strain for a number of years and I am pleased to say, notwithstanding criticism that is so easily made, that the Government is proceeding—although not as vigorously as I would like—with prefabricated homes, imported units and the rest of them.

The Labour Party has been on the Opposition benches of this Parliament for over four years, but in certain districts homes are being granted to people who applied for them when Labour was in power. So terrific is the lag! The pushing on with the building scheme, whether they be blocks of flats, Nissen huts or anything else that are erected, is far better than the intolerable conditions that so many are living under at the present moment.

Mr. Griffith: What do you think of the temporary houses the Housing Commission is providing?

Mr. GRAHAM: So far as many of the people in East Perth are concerned, it is a substantial improvement when compared with the conditions under which they are compelled to live at the moment. I am not suggesting for one moment that those

huts are the final word in housing accommodation, but I am suggesting that it would be far better for the people to be in homes of that nature than to have them live in the crowded conditions of which I have spoken. It is of course a come-down for the person who has been occupying a fine home for a number of years and who, on being evicted, is compelled to accept a somewhat humbler structure than that to which he has been accustomed. It is hard for him, but it is also hard for those who have been compelled to live on back and side verandahs, motor garages, and places like that.

Not only would the housing problem be resolved and the health and mental state of our people be improved, but there would be no necessity for legislation covering evictions or the control of rents, at least not to the extent that it is at the present moment, if only more accommodation of some sort were provided for the unhappy people of whom I speak. I conclude my remarks on the note on which I opened, namely, that this Bill is one to be dealt with essentially in Committee. All of us are agreed, I am certain—with the exception perhaps of several extremists—that for the time being at any rate, and so far as this Bill is concerned until the end of next year, some form of protection is necessary owing to the acute shortage of accommodation. I ask all members to bear in mind the individual cases, not the exaggerated examples that any one of us could quote, but the main principles of the Bill which are to apply to the great majority of the people, namely, the owners and lessees alike.

At the same time—and in this I am at one with the Minister and the member for Melville—penalties can be as severe as the Government wishes to make them because any honourable or decent citizen who obeys the law will have nothing whatsoever to fear because naturally the penalties apply only to those who transgress the law. I hope and trust that the legislation will be passed at the earliest possible moment so that we can patch up the weaknesses which have been revealed. Further, I hope there will be a sense of tolerance and understanding by members of the Legislative Council when the Bill comes before them.

MR. MAY (Collie) [8.49]: I desire to make a few observations particularly in regard to the matter of protection as contained in the Act and the amending Bill of this year. The protection to which I refer is for men on active service and also for men enlisting in the Commonwealth Forces such as the Air Force and the Navy. When he moved the second reading, I noticed that the Minister spoke very lightly and briefly about this matter of protection. As a matter of fact he said that there were also provisions to adjust the rights of protected persons, namely, certain ex-Servicemen and their dependants or those on active service. It is about those people in particular that I wish to say a few words. Under the amending Bill of 1950 men proceeding to Northern Korea, Southern Korea and Japan were afforded protection so long as they were in those prescribed areas, but there was no protection for the families of those men proceeding to those prescribed areas. Paragraph (c) of Clause 19 of the amending Bill of last year sets out the meaning of a protected person as follows:—

> a person engaged on war service within any prescribed area outside the Commonwealth whilst so serving and for such further or other period as may be prescribed.

I know of a case where a man left this State en route to Korea; he reached the Eastern States and was detained there for some time. In the meantime an eviction order was applied for against the man's family and there was no special protection afforded his family until he had reached the prescribed area of Japan or North or South Korea. I notice that by the new regulation No. 29, dated the 30th August, 1951, which was laid on the Table of the House, the position is somewhat improved inasmuch as the regulation prescribes that once a man reaches a prescribed area within a hundred miles of those fighting areas, then he is afforded special protection. To my mind, however, even that does not afford the special protection that every man, or at least every married man, should have when he is proceeding on active service.

I maintain that from the very day that a man enlists, special protection should be afforded him, or at least his family, so that he may leave these shores for active service knowing that his family will be afforded that special protection. The same thing applies to other men enlisting in the Forces, even those who do not go to Korea or a prescribed area. I feel this is one of the main reasons why enlistment in the Forces has been so slow. One cannot expect men to enlist knowing that if they leave Western Australia their families will receive no consideration so far as evictions are concerned. I have taken this opportunity, therefore, of drawing the attention of the Government and the Deputy Premier to the matter, in the hope that some greater protection will be afforded these men either by amendments to the Bill which is now before the House, or by regulation. I earnestly hope that the Minister will take some such step to protect these people.

THE MINISTER FOR EDUCATION (Hon. A. F. Watts—Stirling—in reply) [8.55]: There is not much I need say in reply to the debate as far as it has gone. The points the member for Collie raised will be gone into because, while regulations have been in existence dealing with

some of them, there are other aspects which require consideration, and the Chief Secretary will see that consideration is given to them. In general, I would like to thank members who have spoken for the way in which they have dealt with this Bill. In regard to some of the remarks made by the member for Melville, I point out that the Government is aware that there are a number of difficulties which have arisen since the beginning of 1951, when we can say that the Act of 1950 came into operation, and that so far as it could assess the position, a proper and reasonable measure of justice has been done to both sides by the legislation which is now before us.

The anomaly to which the hon. member has referred in regard to the proposed amendment of Subsection (4) of Section 15 of the Act has, I know, created some uncertainty. It is a strange thing that neither the hon. gentleman nor myself at first sight agreed as to the intention of the second part of the amendment. There is no doubt at all as to the first part of it; that was to clarify the situation that a new tenancy with a new tenant must be created after the 31st December before the provision in the Act of 1950 could apply; but so far as paragraph (b), which has been under discussion, is concerned, I agree with the hon. gentleman that it might be deleted from the Bill altogether, and it is my intention to move in that direction.

The member for Melville also made some reference to the number of eviction notices in the hands of the Housing Commission. I am unfortunately unable to supply him with the number, but I do know that not more, and somewhat less, than 50 per cent. of those that have come under the notice of the Housing Commission during the past months have found themselves in the position where they may have to ask for assistance. From the figures I have seen I would suggest that it is reasonable to say that the figure would be nearer 40 per cent. But let us agree with the hon. member and take it at 50 per cent. That would amount to 250 which would require some consideration.

Hon. J. T. Tonkin: Would not there be increasing difficulty in getting that accommodation?

The MINISTER FOR EDUCATION: I do not think that if this measure were passed the numbers would substantially increase. I formed that opinion from the remarks of the member for Melville and I hope the measures referred to will put a brake on the method of eviction likely to be practised after that date. I think the figures will not substantially increase, and I can inform the hon. member that authority has been given and the erection of 250 of these premises is well on the way. With regard to the two large families the Minister for Housing mentioned, they have been given two of these dwellings for the time being, but they will be moved to more satisfactory or, in other words, larger premises.

Of course there are two sides to this question as I said when I addressed the House earlier when the matter was introduced at a very early stage by the member for Melville himself. The hon. member has produced a number of communications he has received setting out the position from the side whose case he is putting up. I do not doubt for one moment either the hon. member's veracity or the veracity of those who wrote to him. Quite the contrary, in fact; but I know that there are, in the files of the Premier's office, just as many and perhaps more communications from the other side indicating the plight in which people who have been prevented from obtaining admission to their own dwellings are placed, and beseeching the Government to take some action to relieve them from the intolerable position in which they find themselves. Some of them are pitiable in the extreme and it is a very difficult proposition to hold the scales of justice fairly.

I think that a reasonable effort has been made to rectify the greatest difficulties and to meet the situation to such an extent as, in my opinion, is likely to reach the statute book. When I heard the member for Melville and the member for East Perth glibly suggesting that a brand new Bill should be brought down to deal with this matter, well, words would have failed me had I been called upon to speak at the moment, because I am certain that the easiest way to deprive tenants of the greater part of the protection that they are at present receiving and are likely to receive under this measure would have been to bring down a brand new Bill including a recasting of the whole of the provisions that have operated, with changes, since 1939.

Mr. Graham: Will you undertake to have the Act as amended re-printed?

The MINISTER FOR EDUCATION: The measure was consolidated and reprinted in 1949 and has been amended only once since then. Therefore, there was little need for a consolidation or re-printing in 1950. There are many statutes far more involved than this one. However, the question of reprinting the Act, if and when the measure before us becomes a statute, is quite another matter and one that I think should receive favourable consideration, because there will then be two amending Acts of a somewhat conflicting nature and it will be difficult to find one's way through the measure. Last year, however, it was only one amending measure superimposed on a reprint of the year before.

I do not agree, however, that the legislation, when completed, will be still a thing of shreds and patches and incongruities as was suggested by the learned judge, as I

understand from the member for Melville. I submit that the hon. member, in quoting the learned judge, perhaps hardly believed it himself, because I think that Mr. Justice Virtue, with every respect to him, was a little extravagant in the statements he made. I took the opportunity of reading to the House one evening views which I had extracted from the Law Reports of the High Court of Great Britain on this subject, and I think it will not do any harm if I read a much shorter one which indicates from the same Lord Justice what he thinks of persons who decry the statutes put forward by Parliament bona fide and after careful consideration as most Bills that come before this House are. This is what he said—

> We do not sit here to pull the language of Parliament and of Ministers to pieces and make nonsense of it. That is an easy thing to do, and it is a thing to which lawyers are too often prone. We sit here to find out the intention of Parliament and of Ministers and carry it out, and we do this better by filling in the gaps and making sense of the enactment than by opening it up to destructive analysis.

I quote that in reply to the hon. member's references about the legislation being a thing of shreds and patches and incongruities. That is not a fair statement; it was no such thing. It was a law that had been on the statute book for many years and had come in for no condemnation from the point of view of draftsmanship, at any rate. It had been amended by Parliament after reasonable consideration, and while it might be difficult to adjudicate upon the Act, nevertheless it was only difficult to adjudicate upon because of the circumstances and the social difficulties that accompanied them, and not because of the terribly bad nature of the draftsmanship or the set-up as the measure finally left Parliament.

Hon. J. T. Tonkin: The Law Society did not think much of it.

The MINISTER FOR EDUCATION: I do not necessarily subscribe to the views of the Law Society. There are times when I would, and doubtless the hon. member would do so at other times, but I contend that, except for the interpretation to be placed upon some of the language of the statute, there was very little difficulty involved in following the other part, and it does not justify and will not hereafter justify the phraseology that it is a thing of shreds and patches and incongruities. I leave the matter at that.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Hill in the Chair; the Minister for Education in charge of the Bill.

Clauses 1 to 3—agreed to.

Clause 4—Section 15 (2):

Hon. J. T. TONKIN: I move an amendment—

> That in paragraph (d) (b) the words "where a portion of the shared accommodation is occupied by the lessor, and all or part of the remaining portion of that accommodation is let to not more than one tenant, whether for occupation by the tenant alone or by the tenant and his dependants, and whether it is so let and occupied before or after the coming into operation of that Act" be struck out and the following inserted in lieu:—"the lessor shares the accommodation with not more than one tenant, whether it was so shared before or after the coming into operation of this Act."

I consider that the wording of the Bill is ambiguous and will permit of evasion, inasmuch as the owner could be occupying one part of the shared accommodation with one tenant only in another part but with a number of tenants in the same building. That would be against the intention of the amendment though it would comply with the wording, and thus an owner could defeat the intention of the measure. I am hoping that the wording I have suggested will overcome that. I will not guarantee it, but it is as near as we can get to what we think will tie up the position.

Our intention is that where an owner has let portion of his premises to a single tenant—where he has taken in a tenant and his family and the accommodation is shared between the two—it will be possible for the lessor at any time to serve that tenant with notice if he is an unsatisfactory tenant; but where the lessor shares accommodation with a number of tenants, that recourse will not be open to him, because it has been that provision in the existing legislation which has enabled owners of flats to get rid of large numbers of tenants when it was never intended that that should be so.

The MINISTER FOR EDUCATION: I am quite in favour of the hon. member's intention, but am wondering whether the phraseology "the lessor shares the accommodation with not more than one tenant, whether it was so shared before or after the coming into operation of this Act" will not lead to the risk of some debate concerning the tenant and his dependants. The phraseology in the Bill was inserted to ensure that there would be no argument as to one person or more than one person, irrespective of the number of his dependants. If something could be inserted to meet that position, the amendment would be acceptable to me.

Hon. J. T. TONKIN: I have no objection whatever to the inclusion of any words that will make the meaning perfectly clear. But the Minister must bear in mind that we have changed the phraeology altogether. The Bill refers to letting accommodation to tenants and the occupa-

tion of that accommodation. My amendment departs from that phraseology and refers to sharing accommodation. Clearly, if the owner is sharing accommodation with not more than one tenant, he is still sharing accommodation with not more than one if there are another dozen people living with him. The other people are not tenants. If a tenant is living in a property and sharing it with the owner and that tenant has a dozen other people living with him, that meets the definition that the owner is sharing the place with not more than one tenant. If there are more tenants than one, it would not come within this provision. No matter how many members of a tenant's family are staying with him, the owner is still not sharing with more than one tenant.

The Attorney General: He might not necessarily share the whole of the accommodation.

Hon. J. T. TONKIN: This says so.

The Attorney General: He might share only a portion of it. He might share only the kitchen.

Hon. J. T. TONKIN: This says the accommodation.

The Attorney General: That is not the same. A man may have the sole right to his own bedroom, and share the kitchen. That position would not be covered by the amendment, which contemplates sharing the whole accommodation.

Hon. J. T. TONKIN: No. It contemplates that there is a certain amount of accommodation in the building and it is shared, it does not matter in what proportion. This does not say "in equal proportion" but simply "accommodation."

The Attorney General: "Accommodation" must necessarily mean the whole accommodation being used by all parties. It is only a portion that is shared.

The MINISTER FOR EDUCATION: If the hon. member will agree to have this amendment rejected for the moment, I will undertake to recommit the matter before the third reading is put through.

Hon. J. T. TONKIN: The Minister's request is perfectly reasonable, and I will agree to it. When it was rightly decided by the Minister to push on with this matter as quickly as possible, there was limited time for us to consider appropriate amendments and get them on the notice paper. By dint of considerable application, and no little improvisation, it was possible to get our proposed amendments into this form this afternoon. I realise that places the Minister and members at considerable disadvantage. It is our desire that the wording of the amendments shall be as perfect as possible. I lay no claim to being an expert draftsman, and would far rather a trained lawyer should bring his mind to bear on what we require and select phraseology accordingly. On the Minister's undertaking that we shall be given further opportunity to give expression to our ideas, I have no objection to the course he proposes.

The CHAIRMAN: Will the hon. member withdraw the amendment?

Hon. J. T. TONKIN: Yes, I think that would be better.

Amendment, by leave, withdrawn.

Clause put and passed.

Clause 5—Section 15 amended:

The MINISTER FOR EDUCATION: For the reasons which have been mentioned and fully discussed, I move an amendment—

> That in lines 3 to 6 of the proposed amendment to Subsection (4), the following words be struck out:—
>
> "or (b) having been leased before that day, the premises have not been leased for a period of at least twelve months."

Mr. GRAHAM: I thought it was the intention to delete the whole of paragraph (b) of the proposed amendment to subsection (4).

The Minister for Education: No. I am referring only to subparagraph (b).

Mr. GRAHAM: My impression was that the Minister's intention was to delete all the words in paragraph (b) of the amendment in the Bill. I made way for the Minister, to move for the deletion of all words after line 11.

The MINISTER FOR EDUCATION: I cannot fairly be said to have given that impression. I made it quite plain that I was not going to deprive the Bill of anything which allowed a tenancy, not a new one, after the 31st of December, to be dealt with without protection, but I was not going to have this further anomaly creep in which the member for Melville indicated might come about. Therefore I was going to move to delete paragraph (b), which turns out now to be subparagraph (b). However, I am quite prepared to withdraw my amendment in order that the member for East Perth may move to delete lines 11 to 15; and if his amendment is defeated I can then move my amendment.

Amendment, by leave, withdrawn.

Mr. GRAHAM: I regard this as a retrogressive step. Last year I moved an amendment to free all tenancies entered into after the 31st December last, and that provision has operated since. I am unaware of a single instance of complaint or hardship as a result. I think the existing provision has increased the amount of accommodation available, although I criticised the Government for not having sufficiently advertised the fact that today people can make rooms available and, if the tenants are unsatisfactory, dismiss them with a week's notice. If the public generally knew of this, I am

certain that more people would be prepared to offer their premises. The Act now provides that all tenancies entered into since the 31st December, 1950, are removed from the operations of a certain section of the Act so far as eviction is concerned. The amendment in the Bill proposes that that shall apply only to premises that have never previously been let.

Many people may have objectionable tenants; or they may be quite all right. A tenant may have left of his own volition because he has moved into his own house or perhaps has been transferred elsewhere. This means that the owner of the premises cannot—or rather will not—let anyone else in because if he does he cannot get rid of him. So, we are getting back to the position that previously obtained, where persons were afraid to allow other people to enter their homes because if the arrangement did not work out satisfactorily it meant a long process of law to get rid of them, or difficult circumstances between members of the household. If there were any evidence to show the necessity for a different attitude, I might be prepared to adopt it. I did not think for a moment it was the intention of the Government, or the member for Melville, who has largely handled the Bill, to leave in subparagraph (a). Accordingly I wish to move for the deletion of the whole of paragraph (b).

The MINISTER FOR EDUCATION: I think we agreed on another course to be followed, namely, that if the Committee decided to reject the amendment of the member for East Perth then I could move to strike out subparagraph (b). It was suggested that the hon. member should strike out the words down to line 15, and if he were successful I would have to agree, and he would agree with me in my desire to strike out subparagraph (b).

Mr. GRAHAM: Yes. I move an amendment—

> That in lines 11 to 15 the following words be struck out:—
>
> 'of";
>
> (b) adding after the word "fifty" in line five, the words "if—
>
> (a) the premises have not been leased before that day; or"'

Amendment put and negatived.

The MINISTER FOR EDUCATION: I move an amendment—

> That in lines 15 to 18 the following words be deleted:—"or, (b) having been leased before that day, the premises have not been leased for a period of at least twelve months."

Amendment put and passed; the clause, as amended, agreed to.

Clause 6—Section 15 (5) amended:

Hon. J. T. TONKIN: My proposal here is to make Clause 6 do three things, namely, do the thing which the Minister intends it to do and, in addition, carry out the two amendments of which I have given notice. If my amendments are carried, Subsection (5) of Section 15 will read—

> The provisions of this section shall not apply as between the principal lessor and his lessee in respect of premises where such lessee without the consent of the principal lessor or without an order of the court granted for good cause shown has sublet the premises either wholly or in part to sub-lessees or lodgers or has granted leave or license to any person to use the same either wholly or in part.
>
> Provided nevertheless that notwithstanding anything herein contained the Court may, of its own motion, or upon the application of the lessor or the lessee for good cause shown, relieve any lessee upon terms or otherwise from the consequences of any such sub-letting or granting of leave or license.

I move an amendment—

> That in line 2 after the word "by" the following words be inserted:—
>
> "(a) adding after the word 'lessor' in line five of Subsection (5), section 15, the words 'or without an order of the Court granted for good cause shown'"

The reason for the amendment, as I said when speaking to the debate on the second reading, is that a lessee may in good faith allow a friend or relative to stay a few days longer than would ordinarily be regarded as occasional occupation, and may in that way render himself liable to the automatic provision of this Act that in such a case the tenant can be evicted. We feel that where such an unwitting breach has taken place eviction should not be automatic and that the matter should go to the Court on the application of the lessor or lessee, or that the Court, of its own motion, might move in the matter and inquire into what happened. If it was thought necessary or desirable, the Court could relieve any lessee, upon terms or otherwise, from the consequences of any such subletting or granting of leave or license. I think that is a reasonable proposition and hope the Minister will agree to it.

The Minister for Education: It will be necessary to deal with the whole amendment on this first part.

Hon. J. T. TONKIN: Yes.

The MINISTER FOR EDUCATION: I cannot agree to the amendment. What the hon. member seeks to provide is really covered in Clause 6. As I understood it, the difficulty was that a man might let

a person into his premises for some temporary purpose as a guest or friend, or something of that nature, and might in consequence be given notice by his landlord. The matter was dealt with by Mr. Justice Virtue in a judgment dealing with various aspects of this law. In that judgment he gave his dictum that such a subletting could not be regarded as a ground for eviction and, to make assurance doubly sure, there has been provided an exception "except in the case of leave or license granted without consideration in money or money's worth for the temporary, and casual, or occasional, use of the whole or part of the premises." I think those words take in the circumstances that the member for Melville thinks may arise and I do not feel it is necessary to make the somewhat cumbersome provision which then follows. It seems to me that unless the subletting which is the subject of the complaint is a real subletting to a sub-tenant or sub-lessee, within the meaning of those phrases, this amendment, which is part of Clause 6 of the Bill, will mean that the tenant will have no cause to fear the activities which have hitherto been tried by landlords—but have failed—and with which this Bill seeks to deal.

Hon. J. T. TONKIN: I can go some distance with the Minister as to the second part of the amendment, but would point out that no provision is made for where the landlord resolutely refuses to allow a tenant to sublet though he may be occupying a large property with a number of rooms that he cannot use. The landlord may be anxious to get the tenant out and refuse to agree, hoping that by remaining adamant he will eventually force the tenant to go elsewhere. In those circumstances the tenant should be able to apply to the Court for the magistrate to decide whether the tenant should be allowed to sublet and upon what conditions. That is why I wish to include the words "or without an order of the Court granted for good cause shown." That would presuppose that the tenant had the right to apply to the Court for an order. If the tenant can satisfy the Court that he is entitled to sublet the premises, the magistrate should be able to say "You have permission to sublet on the following terms," and the owner should be obliged to agree.

Amendment put and a division taken with the following result:—

Ayes	15
Noes	24
Majority against	9

Ayes.

Mr. Brady	Mr. May
Mr. Graham	Mr. Needham
Mr. Hawke	Mr. Nulsen
Mr. J. Hegney	Mr. Panton
Mr. W. Hegney	Mr. Read
Mr. Hoar	Mr. Tonkin
Mr. Lawrence	Mr. Kelly
Mr. Marshall	*(Teller.)*

Noes.

Mr. Abbott	Mr. McLarty
Mr. Ackland	Mr. Nimmo
Mr. Brand	Mr. Oldfield
Dame F. Cardell-Oliver	Mr. Owen
Mr. Cornell	Mr. Rodoreda
Mr. Doney	Mr. Sleeman
Mr. Grayden	Mr. Styants
Mr. Griffith	Mr. Thorn
Mr. Hearman	Mr. Totterdell
Mr. Hutchinson	Mr. Watts
Mr. Mann	Mr. Wild
Mr. Manning	Mr. Bovell
	(Teller.)

Pairs.

Ayes.	Noes.
Mr. Coverley	Mr. Yates
Mr. Sewell	Mr. Perkins
Mr. Guthrie	Mr. Nalder

Amendment thus negatived.

Clause put and passed.

Clause 7—Section 15A amended.

Hon J. T. TONKIN: I move an amendment—

> That in line 2 of paragraph (b) the word "use" be struck out and the word "occupation" inserted in lieu.

This is a simple amendment. The word "occupation" is used generally throughout the Act and to my mind it is a better word than "use."

The Minister for Education: I agree.

Amendment put and passed.

Mr. GRAHAM: I desire some enlightenment from the Minister with regard to subparagraph (c).

Hon. J. T. Tonkin: I desire to make some reference to subparagraph (b) which appears before the matter referred to by the member for East Perth.

The CHAIRMAN: The member for Melville may proceed.

Hon. J. T. TONKIN: I move an amendment—

> That at the end of paragraph (h), the following words be added "and deleting the words 'make the order,' and inserting in lieu thereof the words 'order that possession of the premises be given to the lessor either forthwith or on or before such day not being more than two months from the date of making such order, as the Court may appoint' ".

When I was in the court listening to applications for eviction of tenants I heard, on a number of occasions, the magistrate ask the lawyers appearing for the owners if they would agree to delay making application for warrants if the orders were granted. The magistrate pointed out that it would take some days for the tenants to endeavour to find other accommodation or to get in touch with the Housing Commission, and so on, and that it would ease the position of the tenants if the owners, having received orders, did not immediately take steps to put them into operation. In some of those cases the lawyers appearing for the

owners agreed; in one case it was a fortnight, in another three weeks, and so on. However, in one or two other cases the lawyers absolutely refused to give any time at all. The magistrate remarked, in those instances, that he had no option but to grant the orders and the matter would have to take its course.

There are a number of cases where an extra few weeks would make all the difference. We all know of cases where tenants, when they knew that they would be likely to be put out, immediately commenced to have buildings erected for themselves. They got in touch with builders but owing to the delay in obtaining bricks and other materials the buildings were not erected as quickly as it was hoped they would be. Therefore by the time the tenants are forced to appear before the courts the buildings are not quite ready for occupation, but in many cases they would be in a further few weeks.

We feel, therefore, that the magistrate should be given power when he grants an order, to say that it shall not be put into operation for a period of one, two or three weeks, as the case might be up to a limit of two months. That is the purpose of the amendment. It does not prevent the magistrate from making an order, upon proof of the facts, but it does allow him some power to delay proceedings. At the moment he is entirely dependent on the goodwill of the solicitors appearing for the owners and sometimes his requests are agreed to, and sometimes they are not. In a case where a tenant says that his home will be ready in two or three weeks the magistrate, if the amendment be agreed to, would be able to stay proceedings up to a maximum period of two months.

The Attorney General: Why not make it one month? That is fair enough.

Hon. J. T. TONKIN: One month might not be quite long enough. I do not think it is asking too much for an owner who has, in some cases, not been in occupation of his property for 20 years, to wait a further two months. The magistrate will decide upon the facts of the case and, if it is an urgent matter for the owner, then I do not think the magistrate will be likely to give the tenant the maximum period. On the other hand, if the magistrate feels that the maximum period should be given, he can do so.

The MINISTER FOR EDUCATION: I feel that this amendment requires consideration and I would have been much happier if the hon. member had agreed to a shorter term. The principle laid down in regard to this particular type of order was immediate possession, but I can understand the hon. member's objection. I know that by arrangement orders have been suspended for a period of two or three weeks. Therefore it would be desirable for the magistrate to have the power of suspending the order for a period without having to ask the owner or the counsel engaged on his behalf. That is his present position as the member for Melville has said. I would be pleased if he would agree to the amendment of one month, and, if so, I would be prepared to accept his amendment.

The CHAIRMAN: Does the member for Melville wish to alter the amendment accordingly.

Hon. J. T. TONKIN: Yes. I wish to provide that in line 5 of the amendment the words "two months" be struck out and the words "one month" inserted in lieu.

The CHAIRMAN: Very well!

Amendment, as altered, put and passed.

Hon. J. T. TONKIN: I would draw the Minister's attention to paragraph (2a) (b) of the proposed new subsection which appears on page 7 and reads—

> On the hearing of an application in respect of premises being a dwelling-house, the Court shall not consider hardship.

I am wondering whether this paragraph over-rides paragraph (3) of Section 18M of the Act where it states that hardship shall be taken into consideration in the case of a protected person. I do not want to do anything to restrict the already very limited protection which exists for ex-Servicemen and other protected persons. Paragraph (3) of Section 18M reads as follows:—

> On the hearing of any proceedings for an order for the recovery of possession of premises from a protected person or the ejectment of a protected person from premises, the Court shall notify the State Housing Commission and the State Housing Commission shall make available to such protected person, a worker's home or a dwelling-house which is owned or controlled by the State Housing Commission for rental purposes, and until such house has been so made available to the protected person the Court shall not make an order against the protected person unless the Court is satisfied that refusal to make the order would cause substantially greater hardship to the lessor and his interests than to the protected person and his interests, or that the acts or omissions of the protected person are such as to render him undeserving of relief under this section.

That is definitely a provision for taking hardship into consideration. I want to know whether the provision in the Bill which says that hardship shall not be considered will over-ride the section in the Act and remove that protection.

The MINISTER FOR EDUCATION: I do not think it possibly could because Section 18 (M) in the Act deals entirely with protected persons and Section 15 deals

with another matter altogether. They do not appear to me to have any connection whatever. I do not think the hon. member has anything to fear.

Hon. J. T. TONKIN: It is not as easily disposed of as that. This clause refers to, "On the hearing of an application in respect of premises being a dwellinghouse, the court shall not consider hardship."

The Attorney General: Previously the word "requires" was used and yet it did not apply to protected persons.

Hon. J. T. TONKIN: This deals with an application for a dwellinghouse. I submit that a protected person could be occupying a dwellinghouse and, if the owner applied for the eviction of that person, that would be an application in respect of premises being a dwellinghouse and this clause says that in such application hardship shall not be taken into consideration.

The Attorney General: Yes, but it only applies to the particular section.

Hon. J. T. TONKIN: Why?

The Attorney General: Because it is a subsection of a particular section and the owner deals with a specific person in another section altogether.

Hon. J. T. TONKIN: I do not profess to know. I have raised the point and if it does not do what the Minister says it does, look out!

The Minister for Education: That is my bona fide opinion.

Mr. GRAHAM: I wish to ask the Minister a question regarding paragraph (2a) (b) on page 7 of the Bill. As the paragraph reads, it seeks to give the court discretion to make two extensions. From line 4 of the paragraph it reads—

> . . . . and may suspend the operation of the order for such time not exceeding 12 months . . .

I now ask the Minister to take note of the words as from line 19, which read—

> . . . . and may, in exercising its discretionary power of suspension, but without otherwise limiting its generality, so suspend the operation of the order to enable the lessee to dispose of stock-in-trade to the best advantage.

In other words, are there two extensions, one for an order not exceeding 12 months and then the second extension to enable the lessee to dispose of his stock-in-trade?

The MINISTER FOR EDUCATION: I think there is no doubt that the second part mentioned by the hon. member is referred to and included in the extension first mentioned, and there is no possibility of any greater extension than the 12 months allowed for under this provision. The second part is merely semi-directive advice to the magistrate as to what part he shall take into consideration when exercising his discretionary power.

Hon. J. T. TONKIN: In connection with the point on which the member for East Perth has been speaking, is this a provision as to what shall be done in the case of a shop tenant having to appear before the court to answer an eviction notice? We agree that the magistrate should have the power to suspend operation of any order to enable the lessee to dispose of his stock-in-trade, but we also consider that there are cases where compensation should be awarded, especially where the owner is obviously being unreasonable and wants to get back for nothing a business which he has previously sold for a specific figure. Take the case of which I know. A woman has her husband, who has had many years active service, in Hollywood Hospital. This woman, in view of her husband's incapactiy, had to build up a business to maintain her family. To do so she had to work for long hours and originally she had paid £500 goodwill.

The Attorney General: Did she pay that to the lessor?

Hon. J. T. TONKIN: Yes. When the term of the lease expired this year, the lessor, because of the legislation which enables him to get the premises back refused to renew the lease and served notice of eviction on the tenant. The position now is that this unfortunate woman who expected to have her husband out of Hollywood Hospital for Christmas, and who thought she might bring him home, has no place to take him. She loses the business which might have provided a livelihood for both of them and the owner, who previously sold it for £500, gets the business back for nothing. That is not a fair proposition. If such a case comes before the court, the magistrate ought to be in a position to say, "If you insist on taking these premises back and will not renew the lease, then you should be prepared to pay some compensation to the tenant for the business she is forced to leave." In other words, the owner should be forced to return part of the goodwill which the tenant paid for initially.

The Attorney General: She can get 12 months' extension, of course.

Hon. J. T. TONKIN: Yes, by which she would be able to dispose of her stock-in-trade, but she still goes out of business. If times were normal, landlords would not take these steps; they would be trying to induce tenants to stay in the places. We have been through times when there were plenty of empty shops about, and in those instances landlords did anything to retain their tenants so that they would have a source of income. There was never any danger of not being able to get a lease renewed. There was never any attempt by owners who had sold businesses to try to get them back.

Now, however, changed circumstances have made it desirable for a landlord to think nothing of the condition of his ten-

ants; landlords are thinking only of £ s. d., and are taking action which will get them their premises back even though they may have no desire to do business themselves. In some cases, they put in a manager, and later sell as a going concern the business that someone else has built up. I do not think it is fair. As this Bill deals with existing circumstances that have arisen, we should make provision for those circumstances. In cases where tenants have paid substantial amounts for goodwill anticipating that they would be permitted to carry on their business, and where landlords have taken steps to prevent them from doing so, I think part of the goodwill should be paid back by way of compensation. If the Minister approves of the idea, I suggest that that might be looked into and a suitable amendment drafted to meet the position.

The MINISTER FOR EDUCATION: This matter of goodwill is one that is exceptionally difficult and I am unable to conceive of any amendment that would be satisfactory in the circumstances. What the hon. member has asked me to do is to give consideration to whether it is possible for some such amendment to be prepared and for us to agree to it. I do not think that is an unreasonable request. I give no undertaking in the matter, but I will give the matter consideration, and on sympathetic grounds I think it should be considered. I will leave it at that.

Hon. J. T. TONKIN: I intend to move an amendment—

> That in line 6 of subparagraph (i) of paragraph (d) of Clause 7, after the word "application" the words "or during the preceding twelve months" be inserted.

In the amendment made in 1950, it was provided that where an owner who had lived in Australia for not less than two years had owned his property for three years and required it for his own use or occupation or for the occupation of his married son or married daughter, he could apply to the court for the eviction of the tenant and the eviction would be more or less automatic. We found that when that was put into practice the word "requires" was interpreted to mean "wants," "desires" and "wishes." So it was a simple matter for an owner who wanted to get rid of his tenant to be able to do so, and many of them successfully did. The Government realises that and has brought down an amendment to alter the word "requires" to "reasonably needs." But the Government wants to ease that for the owner who desires the premises for himself and who, at the time he makes the application, is not living in a house which he owns or which he is in course of acquiring. We do not like that, because we think it leaves the position as it was before. A man might own four or five houses; he might be living in one of them, which he decides to sell, and as soon as he sells it he is in the position of not living in one of the houses he owns. So he can serve notice on the tenants in the other houses to get out. Under this amendment, he would not have to prove that he needed it but that he was not living in the house when he made the application. I do not think this is a fair proposition.

The Attorney General: He has to give six months' notice.

Hon. J. T. TONKIN: To whom?

The Attorney General: To the tenants.

Hon. J. T. TONKIN: But it does not say anything here. This Bill refers to the position of an owner who makes application for the house he wants to live in himself. So long as he is not already living in one, he has to prove nothing when he comes to the court. The Government has relieved the owner of premises who wants them for himself not for his married son, his married daughter, or father or mother of any obligation to prove anything when he comes to the court. All he has to prove is that at the time he made the application he was not living in the house he owned.

The Attorney General: That occurs before the 1st September.

Hon. J. T. TONKIN: His application?

The Attorney General: Yes.

Hon. J. T. TONKIN: Before we go further, will the Minister explain why reference is made to applications made before the 1st September, seeing that the 1st September is past?

The MINISTER FOR EDUCATION: In accordance with an arrangement between myself and the hon. member, I suggest that progress be reported until after consideration of Orders of the Day 5, 6 and 7.

Progress reported till a later stage of the sitting.

BILL—MAIN ROADS ACT (FUNDS APPROPRIATION.)

Second Reading.

THE MINISTER FOR WORKS (Hon. D. Brand—Greenough) [10.10] in moving the second reading said: This is a formal Bill similar to measures that have been introduced from time to time since 1941. The object has been to transfer to Consolidated Revenue the 22½ per cent. of the net balance of the Metropolitan Traffic Trust Account previously payable to the Commissioner of Main Roads in pursuance of Section 34 of the Main Roads Act, 1930-1939 for the improvement, reconstruction, etc. of roads and bridges within the metropolitan area.

Legislation along these lines was found to be necessary after the Commonwealth Grants Commission had reported that substantial amounts had been deducted, to the extent of £65,000 in one year, from the amount assessed as payable to this State because of our failure to bring road finance

more into line with that of non-claimant States by applying some of the motor license revenue to the payment of servicing charges on loan funds expended on roads. As a result of the passing of the Act in 1941 and subsequent Acts, no adjustments have been made by the Grants Commission on account of road debt charges.

The arrangement was restricted to license fees received in the metropolitan traffic area for the licensing years which ended on the 30th June, 1942, 1943, 1944, on to 1947 and on to 1950. The 1950 statute expires on the 31st December next. Last year it was necessary to introduce a Bill covering a period of one year because, at the time, we were not aware of the conditions to be contained in the Federal Aid Roads Agreement Act. That Act now covers a period of five years, and this measure makes provision for a similar period, which will end on the 31st December, 1955. The amounts received by Consolidated Revenue by reason of this legislation have been as follows:—

	£
1942	30,199
1943	26,861
1944	28,942
1945	30,696
1946	33,643
1947	37,518
1948	67,003
1949	58,494
1950	67,711
1951	70,000

I understand that last year the interest required to service the loans amounted to approximately £72,290, but under an arrangement with the Treasurer it was agreed that £70,000 should be the limit and that limit is contained in the Bill. The amount involved will make no difference to the road programme in country districts. There is very little else that needs explanation as similar measures have been introduced from time to time and the provisions are known to members. I move—

That the Bill be now read a second time.

On motion by Mr. Kelly, debate adjourned.

BILL—COUNTRY TOWNS SEWERAGE ACT AMENDMENT.

Second Reading.

THE MINISTER FOR WORKS (Hon. D. Brand—Greenough) [10.18] in moving the second reading said: In 1948, the Government introduced a Bill to enable the policy of providing city social services as far as reasonably practicable in country towns to be put into effect as an inducement towards decentralisation. It was found that quite a large number of country towns could be economically served, and the Government felt that the people living in large provincial towns were entitled to similar services to those enjoyed by people in the city and that for health reasons it was desirable that sewerage works should be undertaken. From the point of view of economics, it was found necessary as a first step to limit the Government's financing of such schemes to towns of 600 or more houses.

We are all aware that in large towns outside the metropolitan area there are many engineering difficulties associated with a sewerage scheme; and, because very often such towns are spread over a wide area, there are numerous problems associated with the necessary water supply that impose limitations. I am told that, even without these limitations, the Government must expect to face certain financial losses for some years to come. It has been found that as the Government has been able to provide water services, as reticulated schemes have reached certain areas and provision has been made in one way or another for towns to be serviced, there has been an increasing demand from most towns for sewerage schemes.

Mr. Marshall: In what country towns has the Government instituted sewerage?

The MINISTER FOR WORKS: I was about to say that sewerage mains are in course of construction at Albany as the first step of the implementation of the scheme there. This work has proceeded for about two years, and it is hoped that in the non-too-distant future—perhaps at the end of this year—sewerage services at that centre will be made available to the public. That is the first town where sewerage has been attempted. The second is Collie. Certain surveys have been completed there, and the Government is now proceeding with the construction of a sewerage system at that town. It is necessary to remind members that very rapid growth and expansion have taken place in Collie over the last two years and it is felt that the time has come when a sewerage service could very well be inaugurated there.

Mr. Styants: Will the provisions of this Bill apply to a country town that finances its own scheme, such as Kalgoorlie?

Hon. A. R. G. Hawke: Kalgoorlie and Northam have schemes installed by the municipal authorities.

The MINISTER FOR WORKS: I would not like to commit myself in that respect. I do not think it would apply. I know that when Northam was in trouble the Government was only too anxious to assist, in order that the municipality might be able to carry on.

Mr. Styants: This gives the Minister power to prescribe and levy charges on a scheme.

The MINISTER FOR WORKS: Yes, on a Government scheme only. In regard to Collie, it was considered that the question of health and hygiene figured largely in the decision to inaugurate a sewerage scheme there in view of the town's being located within the Wellington dam catchment area. The third town receiving consideration is Geraldton. The Government has in mind taking over the scheme there, but I feel that it will be two years at least before any definite move in that connection will be made. It is necessary for the position to be improved with respect to the outfall, and for certain pumping services to be installed before we will be able to take over.

In the course of my travels throughout the country, I have found that people in many towns are interested in doing what they can to introduce a sewerage scheme of one sort or another and, whenever possible, I have endeavoured to co-operate by making the services of Mr. Morrison, our sewerage engineer, available to them. In all cases, I believe, he has been able to impress upon them that sewerage work is very costly, and that what looks to be a reasonably economic proposition is often outside the bounds of possibility at this stage. However, we bear in mind the approaches that have been made by the authority concerned, and, where there is a willingness to assist themselves, I feel that the department can be relied upon to co-operate.

Hon. A. R. G. Hawke: It is a good thing to have plans prepared, even if putting the work in hand has to be postponed.

The MINISTER FOR WORKS: Yes; even though at present it is not possible to proceed with the work, the planning stage, which takes a long time, should be proceeded with in order that we can get on with the job when money, men and materials are available. It is considered that there is justification for some minor amendments to the Act before services are installed, in view of the possibility that at the end of the year we shall be able to provide some service at Albany. Both from the point of view of financing a sewerage scheme and from the aspect of health, it is necessary that all land built upon within a country sewerage area should not only be connected to the sewer but should also contribute towards the revenue.

Before sewerage rating in country towns can be satisfactorily initiated, certain minor amendments to the Act are considered to be highly desirable. These amendments, which have been incorporated in the Bill, are as follows:—

(1) To provide for the levying of charges against non-ratable land.

(2) To permit of the levying of special charges over and above normal rating when excessive sewage has to be coped with or effluents require special treatment.

Mr. Marshall: What land is not ratable under the Act today? There is no such thing as non-ratable land. You could even rate the Milky Way under the Act.

The MINISTER FOR WORKS: There is land belonging to the Crown and used for public purposes, and land owned by charitable organisations.

Mr. Styants: And churches.

The MINISTER FOR WORKS: Yes.

(3) To permit of the limitation of fees and charges imposed under the by-laws to any particular area or district and to permit of differentiation in this respect between particular sewerage areas or districts.

Provision now exists which gives the Minister authority to make and levy sewerage rates in respect of all ratable land within any sewerage district in which a sewer system is ready for use. Crown Law opinion has ruled that the Minister may, as soon as any sewer or part thereof is completed and ready for use, require the owner or occupier, not only of ratable property but also of non-ratable property, to connect same thereto. The land exempted from rating as provided in Section 47 of the principal Act includes—

(a) The property of the Crown and used for public purposes or unoccupied;

(b) land vested in and in use or occupation by a local authority and not held by a tenant;

(c) land belonging to a religious body and used or held exclusively for Church purposes, etc., including a residence of Minister of Religion;

(d) land used for public purposes such as public hospitals, schools, private schools, public libraries, museum, etc.;

(e) land used, occupied or held exclusively for charitable purposes;

(f) land vested in any board under the Parks and Reserves Act;

(g) land used or held as a cemetery;

(h) land declared by the Governor to be exempt from rates.

Section 35, Subsection (1) of the Act, dealing with the obligation of owners and occupiers to make drains, and to connect to public sewers, uses the words "any land." "Land," however, is not defined in the Act, and it is contended that "land" as used in the subsection means land whether ratable or otherwise. This is supported by Crown Law opinion. Therefore, as to the authority of the Minister to insist on connection to the sewerage scheme applying to both ratable and non-ratable land, there appears to be no doubt, but it is desired

even in this to make the position perfectly clear, and provision is made in the amendment accordingly.

There is no power provided in the Act to enable the Minister to assess and levy sewerage rates, or even charges in lieu thereof, on non-ratable land when such land is connected to the sewer. Section 66 makes provision for the Minister to levy sewerage rates in respect of all ratable land within any district in which a sewer is ready for use, but goes no further. The Metropolitan Water Supply, Sewerage and Drainage Act, 1909-1941, Section 101, provides authority for the Minister to make a charge at a prescribed rate for any sanitary service rendered by him to non-ratable land in the metropolitan system.

No such provision appears in the Country Towns Sewerage Act, nor does the metropolitan Act appear to go far enough in providing only for sanitary requirements, and provision is made in the Bill to give the Minister power to assess a charge if a service is provided. There is no intention to give authority for such a charge if the non-ratable land concerned is vacant, or where no service is deemed by the Minister to be necessary, namely, when land is definitely occupied but no sanitation is necessary.

A further amendment to the statute is proposed to enable the Minister to impose a charge in addition to the normal rating in cases where the Minister is satisfied that excess sewage or effluent containing acids or other matters needing special treatment is being discharged into the sewer. Under present provisions where special arrangements have to be made to take effluent from factories, general laundries, large institutions, abattoirs, etc., there does not exist authority for the Minister to make any extra charge for the inconvenience and cost likely to be incurred in dealing with such cases and providing special services. Such a provision is highly desirable in the interests of the economic working of the scheme and also for the protection of the work, and it is provided for in the Bill.

Again, the Act does not permit of differentiation in charges levied as between particular areas or in respect of any different sections of sewerage districts or areas, which provision may be highly desirable in the light of expensive construction and maintenance of any particular section of the work. It was thought that in some of these country towns where settlements, by way of groups of houses, have sprung up some distance from the main population, extra capital expenditure would be incurred, and it would be necessary to strike a special rate, if the people so desired. Section 67 provides that separate rates may be made for each district; and it is desirable and recommended that provision shall also be made to differentiate between the areas or districts in the matter of prescribing charges, particularly under paragraphs 10, 11 and 12 of Section 102 dealing with bylaws. I move—

That the Bill be now read a second time.

On motion by Mr. Styants, debate adjourned.

BILL — INCREASE OF RENT (WAR RESTRICTIONS) ACT AMENDMENT AND CONTINUANCE.

In Committee.

Resumed from an earlier stage of the sitting. Mr. Hill in the Chair; the Minister for Education in charge of the Bill.

Clause 7—Section 15A amended (partly considered):

The MINISTER FOR EDUCATION: Before we reported progress, the member for Melville was dealing with the question of the conditions under which owners of premises might make application for their own homes. He contended that before "reasonable need" was proved, as provided by the amending clause, they should be able to show that they had not occupied a house of their own for a period of 12 months. While that might have substance in some cases, I submit it will work a considerable amount of injustice in others. We are dealing, of course, in this instance —although it does not make a vast deal of difference to the principle, in my opinion —with the case of a person who has given notice and made application to the court prior to or not later than the first day of September, 1951. So, we are dealing with people who have already made application for re-entry into their homes.

It may be true, as the hon. member suggests, that in one or two cases steps have been taken by owners to vacate premises in order that they might come within the provisions of this and the next following subsection. But even if that is so, I suggest that the premises have been made available to someone, because I assume it is 1,000 to one against their being unoccupied. So they are making some contribution towards housing the community. On the other hand, if the 12 months' provision is inserted by the hon. member, it is my opinion—and I think that of the Government, too—that hardship would be done to other people.

Many cases have been brought to our notice where persons have desired to move from the district in which they are resident to another district because they have found it necessary to do so as a result of their employment, or for health or other reasons of a substantial character. As a result they have wished to dispose of the habitation in the district where they lived in order to move to a house in some other district. And then they would have to wait for 12 months before they could apply or, in this case, before the application could be consented to.

Hon. J. T. Tonkin: No.

The MINISTER FOR EDUCATION: I am afraid that would be so.

Hon. J. T. Tonkin: I think I can convince the Minister otherwise.

The MINISTER FOR EDUCATION: The hon. member is unconvinced and I shall be glad to hear him further, but that is how it struck us. In the correspondence that followed on this matter, having been the subject of public controversy for three or four months, a number of such cases have been brought to notice and we have concluded that the greater justice would be done by allowing the facts to be admitted by the magistrate as proof of reasonable need where at the time of application the owner of the premises was not in occupation of any other place. He may for the reasons I have mentioned have recently left premises somewhere else, but he is not at the moment in occupation of any premises and owns a dwelling that he desires to occupy as his own residence. In those circumstances we feel—at all events up to the present—that he should have that right.

Hon. J. T. TONKIN: That qualification gives me some hope. The amendment would not cause any person who required his home to wait 12 months before he could make application.

The Minister for Education: No, but before he could get his premises.

Hon. J. T. TONKIN: No. Prior to this amendment the Act provided that any owner requiring premises for his own use or that of his married son or married daughter could get them without proving that he reasonably needed them. He had only to prove that he required them. The amending Bill provides that where an owner requires premises for himself or for his married son or married daughter or father or mother, the word "requires" shall give way to the words "reasonably needs," and so if the owner reasonably needs the premises for himself or for his married son or married daughter or for his father and mother he can get possession, but it provides that in the case of the owner who wants premises for himself "reasonably needs" is proof if he shows that when he made the application he was not living in a house.

But with regard to the house that he wants for his father and mother or his married son or married daughter, he has to prove to the court that they reasonably need it and not just that they were not living in a house when the application was made. All my amendment will do will be to place the owner who wants the premises for himself in the same position as if he wanted them for his married son or married daughter. That amendment could not possibly have the result suggested by the Minister. Why should an owner be permitted to get possession simply because he has sold the place that he was living in? What virtue is there in selling the place you are living in to enable you to be in a better position to regain possession of a house for yourself rather than for your father and mother or your married son or married daughter.

The Attorney General: He would have to give six months' notice.

Hon. J. T. TONKIN: We begin by saying that the owner of premises who wants them for himself or his married son or married daughter or father and mother shall have to prove that he "reasonably needs" them and not "requires" them. The amendment says "Yes, but where a man comes into court to prove that he reasonably needs them for himself, then, providing he was not living in a place which he owned when he made the application, he has not to prove anything."

The Attorney General: If he made that application before the 1st September—

Hon. J. T. TONKIN: And after.

The Attorney General: No.

Hon. J. T. TONKIN: Why should the fact that the owner was not living in a place that he owned entitle him to go to court and say, "When I made this application I was not living in a house that I owned and so I have no obligation to prove anything," whereas if he wanted it for his married son or married daughter or father or mother, he would have to prove to the court that he reasonably needed it? What is the sense in that distinction?

The Attorney General: We do not want to make this retrospective. He may have given notice under the old Act and six months have expired. He has made application to the court, but it has been adjourned for a few days.

Hon. J. T. TONKIN: Let him prove that he reasonably needs it.

The Minister for Education: That is where we differ.

Hon. J. T. TONKIN: Surely he should not get possession, if he has just sold one place, without proving that he reasonably needs the other.

The Attorney General: That is the law at present.

Hon. J. T. TONKIN: The law is that if an owner wants his house for any reason whatever he can get it.

The Attorney General: That is so.

Hon. J. T. TONKIN: We do not agree with that. I do not agree with the principle no matter when the application was made.

The Attorney General: It applies only to those who actually made application to the court, having given six months' notice, before the 1st September. In most cases it would have been granted.

Hon. J. T. TONKIN: We can do nothing about the cases where it has been granted.

The Attorney General: He may have made application and the magistrate may have adjourned the matter for a few days.

Hon. J. T. TONKIN: We have taken retrospective action with regard to a lot of other things. If a fortnight ago a man who had just sold his property, and applied for possession of another house to get the tenant out, was entitled to get it will the Minister tell me that under the same circumstances next week that man is not entitled to it?

The Attorney General: What I do say is that you cannot distinguish between a man who applied and got his order on the 1st September and another man who does not get it, because, for some unknown reason, the magistrate cannot complete the list that day and adjourns for a week or ten days.

Hon. J. T. TONKIN: If the magistrate has adjourned the hearing, then the man has not got his order.

The Attorney General: Exactly.

The CHAIRMAN: Order!

The Attorney General: If a man has got his order, then he really has got it.

Hon. J. T. TONKIN: And that is the end of it.

The Attorney General: If the case is adjourned, then he would not have his order.

Hon. J. T. TONKIN: Of course he would not.

The Attorney General: It would be unfair to make distinctions, would it not?

Hon. J. T. TONKIN: I cannot follow the Attorney General at all. If the case has been before the court and the magistrate has granted an order, that is the end of it.

The Attorney General: Yes.

Hon. J. T. TONKIN: This amendment of the Government's is to force the order into effect if the application has been made but not yet heard by the court.

The Attorney General: Or commenced and has not been completed.

Hon. J. T. TONKIN: All right. Then I see no reason why all such cases should not be dealt with when they are heard under provisions which we think are reasonable and fair, insofar as we cannot deal with things that are gone. We cannot put back tenants who have been evicted. We have to put them out even though we might deplore doing so. We cannot stop orders that have been made but I think we ought to do something about those that have not been made while there is still time to do so. Why should we say to some owners, just because they put their applications in a fortnight ago "Even though you have sold fifty places in the last 12 months, you can still evict tenants without proving anything, but next week if you try to do the same thing you cannot do so." There is no logic in that.

All my amendment will do will be to impose on the owner who wants to get premises back for his own use the same obligation that would be upon him if he wanted the premises back for his father, mother, married son or married daughter. I see nothing unfair about that. It does not say that he shall be denied the premises. It does not say that he shall not be able to get them for 12 months if he has sold property. All it says is, "When you go to the court to get back these premises, instead of being able to get them automatically, without proving anything, the obligation is upon you because you have sold a house to prove that you reasonably need another one." If he cannot do that, then he should not get the premises. He will not get them for his father, mother, married son or married daughter if he cannot show that they reasonably need them and, if he cannot show that he reasonably needs the premises for himself, then he should not get them either if he has already sold property that he was living in previously. It does not mean what the Minister thought it did? Therefore I am hopeful that the Minister will take a more sympathetic view of the case, and I want to hear from him again.

The MINISTER FOR EDUCATION: The hon. member has not convinced me of the desirability of including his amendment, but he has convinced me that there is considerable reason for moving the amendment he did move. I wish to make it plain that the intention of this amendment, dealing with the actual owner of the premises seeking occupation of those premises for himself, irrespective of his son, daughter or the rest of his family mentioned in the Act, was put there with the idea of giving that owner a superior position to anybody else.

I think I said, when introducing the Bill, that we regarded the claim of that sort of person as paramount. If the hon. member's amendment is accepted, that intention is destroyed. He is quite right. The applicant can go to the court and prove, in the same way as other people, that he has reasonable need. If he cannot do that, then he can wait 12 months, and under the hon. member's amendment his reasonable need will be proved without proof, if that is a reasonable suggestion. But it will not fulfil the intention of this measure which was to put him in a superior position; so long as at the time of the application, or notice, as the case might be, he did not occupy a house of his own, irrespective of whether or not he had just left one, he is entitled without further proof to possesion of the one that he owned.

I have already stated that there are a number of instances where it has been necessary for a man to get out of a district, and in such a case he had to dispose of one place so that he could acquire another in the district in which he proposed to operate. In those circumstances, his paramount position would be destroyed if the

hon. member's amendment was carried. He would have to go to the court to give proof of his reasonable need and would probably be involved in considerable legal argument which, in the circumstances, we desired to avoid. We said he need not prove anything except the fact that he did not occupy his own dwellinghouse at the time. The Bill proposed to give him a superior position, and I intend to adhere to that for the purpose of this discussion.

Mr. GRAHAM: Are we not arguing about something that has no practical application? Today is the 11th September and I suppose the earliest we can expect this Chamber to complete deliberation on the Bill, and then the Legislative Council, followed by a conference—

The Minister for Education: I think the next amendment is also involved, and that does not deal with cases lodged before the 1st September.

Mr. GRAHAM: Instead of two arguments, let us, if we can, reduce it to one. After the Bill has taken its course, the earliest it can have legal effect is on the 20th September. Surely the Minister will agree that practically every application, if not all, made prior to the 1st September, will have been heard and determined.

The Minister for Education: I could not certify to that. I do not know, one way or the other.

Mr. GRAHAM: We are discussing the merits or demerits of a proposition which will probably not affect any cases at all —at the most, maybe one or two. Is it worth further discussion, although I will admit that the principle is a vital one?

The Minister for Education: I think it is bound up with the next one, and the argument disposes of both.

Mr. GRAHAM: I am dealing with the argument on subparagraph (i).

The Minister for Education: It is on both as far as I am concerned.

Mr. GRAHAM: I would be satisfied if the Minister would agree to the deletion of subparagraph (i) because I do not think it has any application at all.

Hon. J. T. TONKIN: I had not previously moved my amendment, but I now intend to do so. I move an amendment—

> That in line 6 of subparagraph (i) of paragraph (d), after the word "application," the words "or during the preceding twelve months" be inserted.

I do not intend to go over the arguments again. The Minister did not shake my belief in this matter and I do not think there is any fairness in the proposition. There is a good deal in what the member for East Perth says; not many cases will be affected. But it seems to me that if we can protect even one tenant from eviction, then it is worth while putting this amendment in the Bill. This is a Bill to protect tenants.

Amendment put and a division taken with the following result:—

Ayes	18
Noes	21
Majority against	3

Ayes.

Mr. Brady	Mr. Needham
Mr. Graham	Mr. Nulsen
Mr. Hawke	Mr. Panton
Mr. J. Hegney	Mr. Read
Mr. W. Hegney	Mr. Rodoreda
Mr. Hoar	Mr. Sleeman
Mr. Lawrence	Mr. Styants
Mr. Marshall	Mr. Tonkin
Mr. May	Mr. Kelly

(Teller.)

Noes.

Mr. Abbott	Mr. Manning
Mr. Ackland	Mr. McLarty
Mr. Brand	Mr. Nalder
Dame F. Cardell-Oliver	Mr. Nimmo
Mr. Cornell	Mr. Oldfield
Mr. Doney	Mr. Thorn
Mr. Grayden	Mr. Totterdell
Mr. Griffith	Mr. Watts
Mr. Hearman	Mr. Wild
Mr. Hutchinson	Mr. Bovell
Mr. Mann	

(Teller.)

Pairs.

Ayes.	Noes.
Mr. Yates	Mr. Coverley
Mr. Perkins	Mr. Sewell
Mr. Owen	Mr. Guthrie

Amendment thus negatived.

Hon. J. T. TONKIN: I move an amendment—

> That in line 7 of subparagraph (ii) of paragraph (d) of proposed new Subsection (2a) after the word "section" the words "or during the preceding twelve months" be inserted.

The purpose of this amendment is the same as in the previous subparagraph, namely, to ensure that persons shall not be relieved of the necessity for showing that they reasonably need their places although they are not living in them when they make the application. What could happen under this subparagraph is far worse than what could happen under the preceding one because it is possible, under this provision, for a man who owns a dozen houses progressively to evict the tenant in every one of them. Suppose he is living in one house and has tenants in the other 11! Before he gives notice to the tenants he can sell the house he is in to make sure he is not living in the house when he makes his application. He selects one unfortunate tenant from among the 11 and goes to court and has to prove nothing, except that he was not living in a house that he owned on making his application. So he gets possession of the house, lives in it for 12 months and then sells it or leases it. He then makes application for another one of his houses, and so he goes on.

The Minister for Education: It will take him 12 years to do all that.

Hon. J. T. TONKIN: Yes, but I was only using the owner of 12 houses as an illustration. The same principle would apply just as forcibly to an owner of three houses. If he lived in one and had tenants in the other two he could have those tenants out in two years without proving that he reasonably needed them. I thought this legislation was to protect tenants? Surely it is not asking too much that when a man owns a number of houses and sells one of them and then wants possession of one of the others, he should be called upon to prove something in the court the same as he has to do if he requires the house for his married son or daughter. If he can prove to the court he has sold one house and reasonably needs another he can get it, but if he cannot prove it he will be prevented from doing so. What sense is there in that? It is only encouraging owners to evict tenants so that they can make money by selling their properties.

I can see no justification in the provision. Why should we say to the owner, "If you want to get rid of your tenants, do not make application while you are in the house, but sell the house first, and then apply to get rid of your tenants and we will help you to do it." Is that the way the Government wants it? I think it would be pretty hard to justify that course of action. We do not want to facilitate the eviction of tenants. We are here to prevent the eviction of tenants by unreasonable action, and I submit it is an unreasonable action in some cases if a landlord has already been comfortably housed and then sells his house for the purposes of enabling him to make application to get rid of a tenant. He should not be encouraged to do that, and I hope the Government will agree to this amendment to prevent it.

The MINISTER FOR EDUCATION: I do not think the amendment of the hon. member would satisfactorily prevent what he envisages in his argument. The case he uses by way of citation in this instance deals with a man who held a considerable number of dwellinghouses in his own right and proceeded to occupy one of them. The hon. member then painted a picture where he would be able over a period to dispose of and dispossess the tenants one by one until he had obtained possession of all the houses. In a case of that nature I do not think the amendment would serve any useful purpose because it would simply make the twelve months into two years, which would merely double the period. As I understand it, what the member for Melville wants to ensure is that these automatic provisions are only made in respect of a person who owns one dwellinghouse and wants to get into it for his own occupation and use. With that aspect I am certainly not in disagreement because that was the intention of this proposition. This could be done, not by the amendment suggested by the hon. member, but by one which has some reference to the conditions to which I am referring. Perhaps if I am able to find an amendment which would meet the case I might be able to agree with the hon. member on re-committal. If it suits him I will let it go at that.

Hon. J. T. TONKIN: I want to be quite clear on what has been offered to us. If this precludes me from having a further opportunity of testing this matter I would much rather have a go at it tonight.

The Minister for Education: I would agree with you on recommittal.

Hon. J. T. TONKIN: In that case it is all right, and I ask leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. GRAHAM: Subsection (4), which is at the top of page 10 of the amendments made last session, provides that a lessor who obtains possession of his premises shall not, within a period of twelve months of recovery, part with possession of the premises except by leave of the Court. But this section provides for an owner to recover premises for his married son or daughter, and now we have added his mother and father. Of course, the owner himself does not want and will not occupy the premises for the period of twelve months. Accordingly he cannot comply with that provision. At the time of making application the owner had no intention of living in the house which he had sought to recover and therefore I want to move in line 2 on page 10—

The CHAIRMAN: We are at page 8 now. Clause 7 has not been completely dealt with. There is no page 10 in the Bill.

Mr. GRAHAM: I know there is no page 10 in the Bill but we are discussing amendments to Section 15A of the Act. We have dealt with subsection (2) because the last thing we did was to provide some conditions by inserting a new subsection (2) (a). I am proceeding to Subsection (4) which admittedly is not mentioned in the Bill. But Section 15A is surely now before the Committee.

The Minister for Education: There is no objection to your moving an amendment but we want to know where you want to move it in the Bill.

Mr. GRAHAM: I made some inquiries of the Clerk earlier this evening and was assured that what I proposed to do would be in order. If I may at this stage explain again what I am seeking to do—

The Minister for Education: I think we know what you want to do but whereabouts in the Bill do you want to do it—that is, in the Bill we are discussing?

Mr. GRAHAM: I want to do it now. If members will give me an opportunity of explaining what it is I want to do then perhaps you, Sir, could give me some guidance as to how it should be done.

The CHAIRMAN: Does the hon. member move that an amendment be inserted after the words "in common" at the end of Clause 7?

Mr. GRAHAM: I will explain the situation with which I am confronted. We are discussing Section 15A of the Act which is to be found on pages 8, 9 and 10 of the amendments that were made last session. Tonight we have been discussing amendments to Subsections (1) and (2) of Section 15A. I want to amend Subsection (4). I move an amendment—

> That a new paragraph be inserted at the end of Subsection (4) as follows:—
>
> (j) In line 2 after the word "section" insert the words "or any other person who obtains possession of premises under the provisions of this section."

The MINISTER FOR EDUCATION: It is clear what the hon. member wants, but I do not think he needs it. Under the Act of last year, it is not the son or daughter who acquires possession as lessor; it is the owner. The son or daughter does not become the owner of the premises. The owner as owner and lessor recovers possession for the son or daughter. Therefore, if he disposed of the house to his son or daughter in the course of 12 months, he would be liable to the penalty.

Mr. Graham: He might have recovered possession without occupying the house.

The MINISTER FOR EDUCATION: That does not matter. He need not continue in occupation in order to have possession. Under the Act, he would have the right to give somebody else possession but not ownership.

Amendment put and negatived.

Hon. J. T. TONKIN: I move an amendment—

> That a new paragraph be inserted at the end of Subsection (4) as follows:—
>
> (j) Notwithstanding anything contained in the Justices Act, 1902-1948, proceedings in respect of any contravention of the provisions of this subsection may be commenced at any time after the happening of such contravention.

I wish to ensure that a person who deliberately contravenes the provisions of the subsection shall not escape the penalty simply because action is not taken within six months. I quoted a case early in the evening where a tenant had been evicted and the owner had no intention of occupying the premises, but had got the tenant out in order to be able to sell with vacant possession. Because of the slow process of the law and the time taken in bringing these matters under notice, such an owner is able to escape the penalty. There is no sense in providing stiff penalties if they can be easily evaded.

The Minister for Education: Would you agree to the insertion of the words "with the approval of the Attorney General"?

Hon. J. T. TONKIN: Yes.

The Minister for Education: Then insert the words "with the approval of the Attorney General" after the word "may" and I will accept the amendment.

Amendment, as altered, put and passed.

Mr. GRAHAM: I move an amendment—

> That a new paragraph be inserted at the end of Subsection (4) as follows:—
>
> (k) Insert a new Subsection (6) as follows:—
>
> In this section an owner of premises shall include his spouse and child or his spouse and children, provided however that it shall preclude action which will enable such an owner to acquire under this section separate premises both for himself and his spouse and child or his spouse and children.

My object is to allow an owner to get possession of his house for his wife and family. At present he can get it on his own account, or for his son or his married daughter, or his mother and father. It is customary for a husband and wife to be living together, but in these days there are some exceptional circumstances. I have in mind a case where the parties own a house in Perth. They went to New South Wales for the purpose of getting established in business. They secured some temporary accommodation, but the business was many miles away. It happens to be a service station and garage, and it is necessary for the new owner to live adjacent to it. He was unable to obtain accommodation for his family within a reasonable distance of the business and finally decided that his wife and family would have to return and, if possible, occupy the house in Perth until he was able to purchase or build a home in New South Wales. In such circumstances it should be possible for such a man to be able to provide for his wife and family under this legislation. I do not think there would be a great number of cases.

The MINISTER FOR EDUCATION: I am afraid the hon. member is asking us to do something which is difficult and unacceptable to me, namely, to try to legislate for particular cases. In the normal way, a husband and wife, in their marital relationships, may be regarded as one. In normal circumstances, they reside together. In the great bulk of instances,

therefore, the necessity for any such provision would not arise and we thus find ourselves dealing with isolated cases, such as the hon. member mentioned and others that might occur, and I do not think we are justified in making amendments of that nature.

Mr. GRAHAM: I agree with the Minister that in normal circumstances a husband and wife would live together; but these are abnormal circumstances. Secondly, so far as a man is concerned, the only persons for whom he has a legal obligation to provide are his wife and children, and there is no specific provision for them. He is not legally compelled to find accommodation for a married son or daughter, or for a mother or father, but he is expected to do so in respect of his wife. Yet we provide no means under which a person in these unhappy circumstances can obtain his premises other than by what might be lengthy and expensive proceedings in applying in the ordinary way on the grounds of hardship; and, in the case of a working man, that is asking too much. I hope that there will be no suggestion of party politics in this matter and that my amendment will be agreed to.

THE MINISTER FOR EDUCATION: I have no party spirit in regard to this matter and, if the arguments of the hon. member were soundly based, I would be prepared to accept them. But they are not. The only circumstances wherein this question of the responsibility for a wife and family could arise, and where the Act does not already provide for it through the rights given to the owner himself, would be where the parties are divorced or separated or the husband is outside the State. If the husband were outside the State on war service, I would say that his domicile was still in Western Australia, and therefore he would still be legally an owner in Western Australia and entitled by his attorney or agent, in accordance with the ordinary rules of law, to do what is requisite in the State. If he has gone to live in England or New South Wales and left his wife here, and has no intention of returning, the circumstances mentioned might arise; but, generally speaking, they would be particular cases. I can see no necessity for the amendment except in those few instances in which I contend we have no right or need to take any interest. That is why I oppose the amendment, and not because I want to make a party political matter of it.

Hon. J. T. TONKIN: I am inclined to the view that the position the member for East Perth desires to bring about is already sufficiently covered. I can see his point of view exactly, and the reason for it. There may be a number of cases where a man might be engaged in an occupation in the outback parts of the State necessitating his moving from place to place. He might own a house with a tenant in it, and desire possession of the home so that his wife and children may have the use of it, whereas he might not be anywhere near the place for months or possibly years on end. I think under the existing legislation he could get the house.

The Minister for Education: So long as he is domiciled in the State.

Hon. J. T. TONKIN: Yes. He could apply to the court and say that he reasonably needed the house for his wife and family, and I think he would succeed in getting it.

Mr. Graham: For his own occupation.

Hon. J. T. TONKIN: I think he would get it if it were to provide a home for his wife and children. If he leaves only a bag there, or stays the night, or if he buys the furniture, he meets the requirements of the Act, even though he does not show up at the house for years. I think the position is covered, although I sympathise with the idea of the member for East Perth.

Mr. GRAHAM: My only comment is that this point was referred for legal advice, which was to the effect that such a man could not apply under the provision of the 1950 amendment. Therefore I repeat there is need for us to make this amendment, and I ask the Committee to support me.

Amendment put and negatived.

Clause, as previously amended, agreed to.

Clauses 8 to 10—agreed to.

New clause—Amendment of Section 12A:

Hon. J. T. TONKIN: I move—

That the following be inserted to stand as Clause 4:—"Section 12A of the principal Act is amended by—

(a) inserting after the word 'may' in line 5 of Subsection (1) the following:—

'(a) of his own motion, and from time to time; or

(b) upon application made in writing by the lessor or the lessee as aforesaid.'

(b) deleting the word 'the' in line 6 of Subsection (1) and substituting therefor the word 'any'."

The reason is to permit a rent inspector to inquire into the rent being charged, even though he has not received an application from the lessee or the lessor. I have had a number of cases brought to my notice where exorbitant rents are charged, or where rents have been increased unconscionably because the landlords knew full well that the tenants would not call in the rent inspector for fear of being given notice to get out. The rent inspector is aware of a number of cases where the rents are too high, but he cannot take action of his own motion because he is not empowered to do so by the law. I believe there are several cases where he could take action if he were able

to do so. I would like the law altered to permit him to go in and see what rent is being charged. Not only would that result in considerable relief being afforded to tenants, but it would be a real contribution towards putting a brake upon inflation. If landlords knew that the rents they were charging might be inquired into, they would hesitate before they raised them. Therefore, there would be a tendency to keep rents down, which would be in the interests of the community. This provision would mean no hardship to those playing the game. If landlords were charging no more than they were entitled to the fact of the rent inspector making inquiries would not hurt them, but, on the other hand, it would help some landlords in this way: If they were not getting as much rent as they were entitled to receive, the inspector would help them to increase the amount.

This provision would be fair and just in that way; and it certainly would mean that the rent inspector could act in such flagrant cases as occur when rents of £6 and £7 a week are being obtained from premises containing a few sticks of furniture. I was told of an instance where a pair of semi-detached houses had been let for £1 a week. The owner got the tenant out, and put a few pieces of furniture into the place, and then charged £6 a week. The rent inspector knows of this case, but he can do nothing about it because the tenant is afraid to apply to have the rent fixed. If the rent inspector could, of his own motion, go along to that place, he could correct the position straight away; and the landlord would not be able to blame the tenant for having brought the matter to the notice of the rent inspector. I think the proposition is reasonable and I hope the Minister will agree to it.

The MINISTER FOR EDUCATION: I cannot accept the amendment, particularly in its present form. On the one hand, the hon. member indicates that injustices are being done because of the absence of opportunity for the rent inspector to be informed of circumstances and to have power to investigate them. On the other hand, I do not want to give any officer the right to probe into these affairs unreasonably, which might easily be the corollary.

Hon. J. T. Tonkin: He has to do too much work to do that.

The MINISTER FOR EDUCATION: I cannot accept the amendment in its present form, and I am not over-enthusiastic about it at all. I do not quite know the value of the second part of it, although I have no objection to it. My query as to the value of it has arisen from the hon. member's own argument that it is useless for the lessee to make a complaint. And it will surely be no more useful to have it in writing than verbally because there would be no question in the mind of the landlord —if the hon. member's contentions are correct—that the lessee had made the complaint. The amendment provides that the rent inspector may of his own motion fix a fair rent for the premises from time to time and I do not know why the words "from time to time" should be inserted. Once the rent was fixed by the inspector no change would be made in it until the Act was again amended because I take it the rent fixed would be the maximum allowed.

Hon. J. T. TONKIN: I realise that the Minister is at a disadvantage in that he had not my amendments in time to study them and compare them with the Act. The words "in writing" are not unnecessary or restrictive, but are the words already in the Act. The lawyer who drafted this amendment said, "That phraseology is necessary to relate it properly to the existing section." The idea was mine, but the phrasing was done by the draftsman appointed to assist members. He is good and does an excellent job. The reason for the words "from time to time" is that, while a rent inspector may go only once and fix the rent there is no guarantee that the landlord will then charge no more than that. Although the Deputy Premier may not be aware of it there is a real racket today with regard to rent in residentials and the tenants are afraid to say anything.

Many have had the experience of applying to the rent inspector and then being asked to leave. Accommodation is so difficult to get that they would rather suffer in silence. Some residential owners put the rent up almost weekly. Each time they get one lot of tenants out they raise the rent still further for the next lot. Some are charging £5, £6 or £8 a week for a few rooms and a few sticks of furniture and the existing law does not prevent that. If the Minister sees the rent inspector he will find that the position is almost hopeless under the existing law. If the landlords knew that a rent inspector was moving about in the area and might drop in at any time they would not take the risk. I am informed that the imposition of the landlords on some of the migrants is terrible.

The Premier: Even if the amendment were accepted would not the tenant still be fearful of what might happen after the rent inspector had come in?

Hon. J. T. TONKIN: When the rent inspector tells people that they must declare the position to him in writing they are scared to do it and he can do nothing further. I wish to provide that when he knows what is happening—perhaps he is tipped off—he can go along and inquire.

Mr. Hutchinson: Would not that fear remain if the amendment were agreed to?

Hon. J. T. TONKIN: There might be cases that the rent inspector would not know about, as he might not visit some residentials more than once in two or three years. We want to provide that where the tenants are afraid to approach

the inspector and put the matter in writing he can do something of his own volition. What is the use of rent inspectors if they cannot keep rents down to a proper figure?

The Minister for Health: Many foreigners like to live in large numbers in restricted quarters.

Hon. J. T. TONKIN: Yes, but they do not like having to pay £10 or £12 a week for it.

The Minister for Health: They get well paid, and they like living in that way.

Hon. J. T. TONKIN: Is that the view of the Government.

The Minister for Health: No, I am not the Government.

Hon. J. T. TONKIN: It is an extraordinary view to take.

The Minister for Health: I do not think it is.

Hon. J. T. TONKIN: What the Minister says is, "Why should not the landlord have the money because the tenants can afford it."

The Minister for Health: I did not say that. I say that they are crowding out the house of their own volition.

The MINISTER FOR EDUCATION: I move an amendment—

> That in paragraph (a) the words "of his own motion and from time to time" be struck out and the words "at any time with the approval of the Minister" inserted in lieu.

Hon. J. T. TONKIN: This suits me quite well because in effect it is just what I intended. If the Attorney General did not want the rent inspector to go round he could tell him to stop doing so. A wink is as good as a nod to a blind horse but if the Attorney General, or the Minister, feels that these inspections should take place then he can give approval for the rent inspector to carry them out. That is satisfactory to me because it will let people outside know that at any time the Minister might give approval to the rent inspector to look at places where overcharging may be occurring. The rent inspector could submit information to his Minister, when he knows that overcharging is being carried out, and suggest that he might make an inspection. In that case the Minister could authorise the rent inspector to make such inspections. That in itself would be sufficient deterrent and I therefore have no objection to the proposal.

Mr. READ: What does this really mean? Does it mean that a person has to go to the Minister before the rent inspector can make an inspection?

The Minister for Education: No, he goes to the rent inspector who submits the case to the Minister.

Mr. READ: I know what the Deputy Leader of the Opposition is trying to do and I think his intention is a good one. Whether the phraseology is correct or not, I do not know, but these cases of overcharging are not isolated. I know of a case where there is a shop and residence attached. The tenant is paying £3 10s. a week and he sublets the residential portion for the same figure of £3 10s. a week. The woman concerned came to me and complained and I told her that if she would write me a letter, or come with me to the rent inspector, the matter would be fixed up at once. She told me she would not do that because she was frightened she would be put out. There is another case in my district which is almost identical but in this case the rent being charged is £2. If power is given to the inspector to make inquiries at these particular places the sub-tenant would not be blamed and it should meet the situation. I would be only too willing to inform the rent inspector of any cases I heard about. But if every application has to be made to the Minister then it will not be very satisfactory.

Amendment put and passed; the new clause, as amended, agreed to.

Title—agreed to.

Bill reported with amendments.

House adjourned at 12.6 a.m. (Wednesday).

Legislative Council

Wednesday, 12th September, 1951.

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The PRESIDENT took the Chair at 4.30 p.m., and read prayers.